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### RISK MANAGEMENT FOR THE 21ST CENTURY ACT

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Mr. LUGAR, from the Committee on Agriculture, Nutrition, and  
Forestry, submitted the following

### REPORT

[To accompany S. 2251]

The Committee on Agriculture, Nutrition, and Forestry, having considered an original bill (S. 2251) to amend the Federal Crop Insurance Act to improve crop insurance coverage, to provide agricultural producers with choices to manage risk, and for other purposes, reports favorably thereon and recommends that the bill do pass.

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#### I. PURPOSE, NEED, AND BACKGROUND

The Risk Management for the 21st Century Act is intended to address four aspects of the Federal crop insurance program that need improvement. First, producer participation must be increased. Second, program administration needs to be streamlined, and procedures for approving policies and plans of insurance must be simplified to facilitate flexibility, innovation and transparency, and encourage the development of new products from the private sector. Third, better risk management in production agriculture must be encouraged by offering new types of insurance coverage such as whole farm revenue and combined individual and area yield poli-

cies, especially for specialty crops. Finally, fraud and abuse in the federal crop insurance program must be better managed.

Since the expansion of the federal crop insurance program in 1980, Congress has undertaken several reforms to improve the scope and success of the program available to producers. The most significant reforms occurred in 1994 with the passage of the Federal Crop Insurance Reform Act. The purpose of this legislation was to address concerns with poor participation in the program and to attempt to stop the near annual need for agricultural disaster assistance legislation.

Agricultural producers must deal with the vagaries of weather, pests, and disease that few other industries in our society. Better use of crop insurance and other risk management tools by agricultural producers are essential if Congress is to avoid the need for future disaster programs. Producers are less willing to purchase crop insurance and use other risk management strategies if they believe Congress will provide disaster assistance each year.

Nobody, producers, lenders, or the Congress, want to depend on disaster bills. Funding levels of such ad hoc assistance are unpredictable, making it difficult for producers and lenders to make financial decisions at the beginning of a crop year. By its very nature, it is uncertain whether ad hoc disaster legislation will be passed in any one year. One purpose of the Risk Management for the 21st Century Act is to avoid this ad hoc approach.

Prior to 1994, producer participation percentages were often below 40 percent. This low participation rate and the desire to end disaster programs led Congress to passage of the 1994 legislation. Subsequent reforms were made to the program in 1996 in the Federal Agriculture Improvement and Reform Act, and in 1998 in the Agricultural Research, Extension, and Education Reform Act. These reforms to the program appear to have been successful, as participation in the program increased from 38 percent of insurable crops in 1994 to 67 percent in 1998.

Despite these increases in participation, many producers still believe that the crop insurance program does not provide an adequate coverage. This is largely because the higher levels of premium subsidy are targeted at the lower levels of coverage, and the subsidy level falls as insurance coverage levels rise. Thus, if a producer wants to increase coverage from 65/100 to 75/100, the cost of the policy nearly doubles even though that actual coverage increases by only 10 percent. The current subsidy structure provides a strong disincentive to producers from increasing their levels of coverage.

High participation rates are also dependant on the crop insurance program's ability to adapt to constantly changing conditions involving weather, agronomy, technology, and economics. Currently, many producers, especially specialty crops producers, do not believe this is occurring. While participation percentages have increased for many crops, the rate of participation for many specialty crops has continued to lag. Many specialty crop producers argue that low participation levels are caused by the slow or nonexistent development and approval of policies that address their needs.

Despite the real progress and positive steps in the crop insurance program in recent years, calls for improvements to crop insurance began to intensify in 1998 and 1999. During this time, many of the

inadequacies in the current subsidy structure, APH system, and product approval and development process began to become all too apparent. As a result of demands to improve the crop insurance program, during the late fall of 1998, interested commodity and farm groups, lending organizations, approved providers, and insurance agents were given the opportunity to provide comments and recommendations about how to improve the program.

The responses from these groups were overwhelming, and common themes emerged. First, the premium subsidy needed to be inverted to provide increased subsidies for higher levels of coverage. Second, the subsidy should be equivalent for revenue and yield policies. Third, modifications to the calculation of actual production history (APH) was necessary to account for multiple year disasters. Fourth, additional APH adjustments were necessary for new and beginning farmers. Fifth, a stronger program was dependant on a stronger FCIC Board of Directors and streamlined product approval and development processes. Finally, increased emphasis and money was necessary for programs and policies of affecting specialty crop producers. All stakeholders also expressed a need to eliminate fraud and abuse in the crop insurance program.

The Risk Management for the 21st Century Act addresses all of these concerns. A largely inverted premium subsidy structure is provided, allowing for higher levels of assistance at higher levels of coverage. The purpose of this provision is to facilitate purchases of higher levels of coverage worthwhile for producers. Under the current structure, producers' out of pocket costs will often double for a 10 percent increase in coverage. This discourages producers from taking coverage they would otherwise consider, and increases the odds that Congress will feel compelled to pass a disaster bill each year.

These changes are also supported in large part by the lending community. If a producer can show the lender that adequate protection against potential production losses has been procured, it is more likely that the lender will provide an operating loan to the producer. The inverted subsidy provides additional confidence and certainty to the lending process for both producers and lenders.

The exception to the inverted structure (in the Risk Management for the 21st Century Act) is at the 50/100 level of buy-up coverage, where the premium subsidy will be 60 percent. This was done to address regional concerns where producers largely purchase only the lowest, catastrophic (CAT) level of coverage. To encourage producers to purchase coverage above the CAT level, the premium subsidy at this lowest level of coverage was increased.

Through numerous discussions with producers, the severity of problems affecting producers suffering from multiple years of crop losses became very apparent. While this has been a problem throughout the country, it has been particularly pronounced in the northern plains. The current legislation provides the Risk Management Agency with a mechanism to deal with this problem. However, the legislation also includes a phase-out that allows for this provision to be terminated when the Board determines that appropriate crop insurance policies have been developed to address this issue. The Committee encourages the FCIC and approved insur-

ance providers to work together to expeditiously develop these policies.

Many producers also believe that the current assigned yield system for new and beginning farmers provides inadequate coverage. The Committee is concerned that this adversely impacts those producers who need insurance coverage the most—young, beginning farmers who are often the leveraged financially.

Several concerns have been expressed about the inadequacy of the noninsured crop assistance (NAP) for producers of specialty and program crops. Producers using NAP are disadvantaged because NAP is not provided through formal, approved insurance policies. One concern is that currently different varieties of the a crop cannot be combined for the purpose of computing losses, and is insufficiently flexible for new crops. Of particular concern to many producers was the area trigger prerequisite to a NAP indemnity payment. Complaints regarding the area trigger were numerous. Producers expressed concern that certain sections of a county or area may often suffer losses, but the losses are not severe enough throughout the county to trigger NAP assistance. The Committee is acutely aware that this is a problem in western states where the difference between the highest and lowest elevations in a county may be 4,000 to 5,000 feet. Because NAP inadequately addresses their needs, producers are put at a serious disadvantage for managing their risk.

Specialty crop producers should also have access to many of the same crop insurance products available to producers of the major crops. However, most specialty crop producers believe they are inadequately served by the crop insurance program. Addressing the needs of specialty crop producers is a major goal of the current legislation. The Committee strongly believes that products available to these producers must be expanded and improved. The legislation provides a commitment to these producers by providing an additional \$20 million annually for grants to outside entities to undertake research in developing these policies. The Committee expects RMA and the FCIC Board to be aggressive in these areas.

One of the top concerns the Committee heard from numerous producers, farm and commodity organizations, and approved insurance providers involved problems with the regulatory and product approval processes in the crop insurance program. Most believe that the current process is burdensome and contains insurmountable roadblocks that have stifled the development of new products and policies. The Committee strongly believes that the crop insurance program cannot be successful if it cannot respond to a changing agriculture and producers needs.

The current legislation includes a major restructuring of the FCIC Board of Directors. The intent underlying these changes is to bring the expertise of producers and individuals in the insurance industry to the Board. The Committee strongly believes the best way to improve the program is through the advice and expertise of those who actually use the program. The legislation creates new positions for staff to assist the board with the product review and approval process, and to review and evaluate existing policies. The purpose of the staff is to provide the Board with a qualified, unbiased opinion regarding the approval of new and existing products.

There is a strong feeling among the agriculture and insurance communities, and in Congress that product development has too often been stifled by Federal agency (FCIC) competition and redundancy with the private sector. The Committee believes these roadblocks are not healthy and harm the overall effectiveness of the program. For this reason, a streamlined private product approval process is included in the bill. The Committee fully expects the Secretary to implement this approval process and to substantially streamline, accelerate, and implement the private product approval process.

Fraud and abuse cannot be tolerated in the Federal crop insurance program. Fraud and abuse undermine the integrity of the program, increase costs to producers, and violate the trust of the taxpayers who ultimately pay for the program. If fraud and abuse is occurring, it gives all of agriculture a black-eye. The Committee is committed to curbing fraud and abuse in these programs. The legislation provides substantial changes in the program's fraud and compliance provisions, and the Committee expects the Secretary to use these tools as necessary. Conversely, only those situations that clearly warrant investigation and penalties should be vigorously enforced and prosecuted. These provisions are not intended to provide carte blanc to undertake investigations without evidence or clear indications that they are necessary.

Finally, the Committee believes that a strong private/public partnership is an important cornerstone of the crop insurance program. Private involvement in the program is healthy and often eliminates inefficiencies that occur when programs are administered through the public sector. The Committee intends for the Secretary to take continued steps to strengthen this partnership. The crop insurance program should remain a function solely of the Risk Management Agency with delivery provided through approved insurance providers. Other agencies within the Department of Agriculture lack the necessary staffing, training, or, in some cases, resources to administer this program in the manner producers and taxpayers expect.

## II. SECTION BY SECTION ANALYSIS

### TITLE I—CROP INSURANCE COVERAGE

#### *Section 101. Quality adjustment*

The FCIC is required to provide insurance coverage that allows a reduction in quantity of production for the purpose of establishing yield when the quality standards established in the policy are not met. A producer can opt to exclude this coverage from the insurance policy. This section allows producers to opt out of crop insurance coverage protecting against quality losses and requires the FCIC to analyze and modify its quality adjustment procedures to more accurately reflect local quality discounts.

In 1997, FCIC amended its method of accounting for quality losses by standardizing "reduction in value" (RIV) charts, which use a national quality adjustment factor instead of the previous method of factoring quality discounts assessed by local elevators. The Committee is concerned that FCIC's current procedure can significantly understate quality discounts subtracted from producers' crop values. The Committee is most concerned that the standard-

ized quality adjustment factors are based on national averages, while quality problems of any significant impact are found mainly on a regional basis. The Committee recognizes FCIC's concern about potential market manipulation to take advantage of a market-based quality adjustment procedure. It is also aware of the agency's difficulty in determining quality factors that address the changing magnitude of factors throughout the marketing year. The Committee understands that these concerns were major factors leading to FCIC's implementation of procedures incorporating the national RIV charts. Still, producers are now assessed greater quality discounts than those covered by their policies, due to FCIC's revised procedures. Producers purchased coverage to manage this risk and many believe they are not receiving satisfactory coverage. The Committee agrees.

The Committee expects FCIC to keep it informed of its plans for analysis of the quality adjustment procedures and the agency's progress while the analysis is being conducted. It also urges FCIC to use quality discounts when determining initial losses, not only after a producer has met the loss threshold. The Committee intends for new quality adjustment procedures to be implemented for the 2001 crop year. In the case that large numbers of producers opt out of quality adjustment coverage, the Committee urges FCIC to take measures to prevent increases in coverage costs for producers who continue to insure themselves and manage their liabilities against these risks.

#### *Section 102. Prevented planting*

Requires equal coverage for each insurable commodity. Allows planting of substitute commodity on acreage on which a prevented planting payment has been received. The substitute commodity is not eligible for insurance coverage. If a substitute crop is planted, the FCIC will assign a yield for that year equal to 60 percent of the producer's actual production history (APH) on the crop that was prevented from being planted. If a substitute commodity is planted before the latest planting date established by the Corporation for the crop prevented from being planted, the producer will not receive a prevented planting payment. Requires re-rating to reflect these changes not later than the 2001 reinsurance year. A producer can opt to exclude this coverage from the insurance policy. Effective for the 2001–2004 reinsurance years.

The Committee intends that producers not be required by FCIC to idle productive land that could otherwise yield a crop and provide critical farm income. This section will effectively eliminate the so-called "black dirt" policy that has been imposed by FCIC. The Committee recognizes that allowing producers to receive prevented planting indemnities and then replant the ground to a second crop could foster fraud and abuse. The limitations contained in this section, including that directed to area conditions, should be implemented by the agency in a manner that will tend to reduce the opportunity for fraud and abuse. However, the Committee expects FCIC to implement such limitations in a way that does not undermine the fundamental intention of the Committee. The provisions on final planting date and area conditions should be implemented in a common sense fashion. The "latest planting date established"

is intended to refer to the final planting date for the original commodity and not to any late planting period that might be established by FCIC. It is not the intent of the Committee to insure failure or poor performance of a replacement crop because planting was delayed pending the passage of the final planting date for the original commodity. The Corporation should ensure that planting dates are determined and implemented in a manner that takes regional conditions into consideration.

*Section 103. Payment of portion of premium by corporation*

Premium subsidies for loss of yield and revenue coverage are made equal. Premium subsidies for plans of insurance are established at:

- 60% premium subsidy on 50/100 yield or revenue coverage, or an equivalent coverage;
- 45% premium subsidy on 55/100–60/100 yield or revenue coverage, or an equivalent coverage;
- 50% premium subsidy on 65/100–70/100 yield or revenue coverage, or an equivalent coverage; and
- 55% premium subsidy on 75/100 and greater levels of yield or revenue coverage, or an equivalent coverage.

For levels of yield or revenue coverage higher than 75/100, the premium subsidy is established at a level that equals the dollar amount of the subsidy calculated at the 75/100 coverage level. Allows Cost-of-Production policies to be developed. Potatoes are not eligible for revenue coverage except as a part of a whole farm plan of insurance. Allows individual yield and area yield coverage to be combined into a single policy and made available to farmers if such a policy is approved through the private submissions procedure authorized by section 508(h) of the Federal Crop Insurance Act. Effective for the 2001–2004 reinsurance years.

Under current law, producers receive a premium subsidy that is based upon the level of coverage they are purchasing. This level of subsidy falls as a producer purchases higher levels of coverage. Thus, as producers purchase higher levels of coverage, their out-of-pocket costs increase disproportionately. This has discouraged many producers from purchasing higher levels of buy-up coverage, which many members of the Committee believe has led to the need for disaster assistance bills. This provision works to address this problem and encourages producers to purchase higher levels of coverage.

Under this legislation, premium subsidies are provided in an inverted formula to encourage producer participation in higher levels of coverage. This provides producers with greater risk management coverage and reduces their out of pocket expenses. Subsidies are as follows: 50/100, 60 percent; 55/100 and 60/100, 45 percent; 65/100 and 70/100, 50 percent; and 75/100, 55 percent. The exception to the complete inversion of subsidies is at the 50/100 level. The Committee heard from many specialty crop producers who are concerned that the cost of increasing coverage from Catastrophic (CAT) levels to the 50/100 level is cost prohibitive. Current subsidies at this level are 55 percent. The legislation increases this to 60 percent as an incentive to encourage producers to increase coverage from the CAT to the 50/100 level. Premium subsidy is to be

determined under section 508(e) solely on the percentage of yield a producer elects to insure without regard to the price election selected by the producer. In the case of equivalent coverage on other than a loss of yield basis, the premium subsidy shall be an equivalent monetary value.

The Committee intends that the FCIC provide coverage choices to producers in increments of 5 percent as soon as practicable. This section also authorizes FCIC to provide a price election under a policy or plan of insurance based on the projected cost of producing the covered commodity. The Committee believes cost-of-production policies will help to address the concerns of many producers when APHs fall as a result of multiple years of crop losses.

Subsection (e) strikes Section 508(e)(4) of the Federal Crop Insurance Act (Act) that provides the FCIC with specific authority to approve plans of insurance that would combine individual yield or revenue and area yield or revenue coverage into a single policy. The Risk Management Agency has indicated that 508(e)(4)'s specific authority is not necessary because such combined policies can be approved for subsidy and reinsurance through the more general authority provided by the Act's section 508(h), as amended by this bill. The Committee supports the crop insurance industry's efforts to make a combined individual and area yield policy available to farmers through the Act's 508(h) approval process, and intends that such a policy be fully eligible for premium subsidy.

The 1998 Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998 authorized a crop insurance premium discount of approximately 30 percent. Utilizing the authority granted to the Secretary of Agriculture, an additional 20 percent discount was provided to wheat and barley producers who had been impacted by an unusual extreme of excess moisture which caused the disease known as "scab" in those crops. Subsequently, these producers purchased higher levels of coverage to further mitigate their risks of losses due to crop disease. The Committee finds merit in this program, as it encourages and provides incentives for producers to take individual action to manage risk to the maximum extent possible.

In the past three to four years, many potato producers in the Red River Valley, as well as other potato growing areas, have suffered from a crop disease known as potato blight, and other internal soft rot diseases, caused in large part by excess moisture. These losses have caused a direct economic loss of more than \$100 million in 1999, in the Red River Valley alone. The Committee expects Congress to consider, during discussions of possible crop disaster programs this year, offering premium discounts to potato producers who have suffered from excess moisture. The Committee urges the Secretary to use his authority to offer a supplemental 2000 crop year premium discount, at least equivalent to that established by the wheat and barley scab precedent, to potato producers impacted by excess moisture during previous years.

The conforming amendments in Section 103 include a provision to equalize the premium subsidy for revenue products. Revenue insurance has proved to be a popular risk management tool for many producers and this provision will make it more affordable for producers to improve their coverage. RMA currently interprets the law

in a way that allows federal subsidy for only the yield portion of revenue products. This change will allow the subsidy to apply to both the yield and price components.

The Committee is aware that the National Potato Council has expressed opposition to providing revenue insurance policies for potatoes. The bill includes language prohibiting additional premium subsidies on revenue policies for potatoes. The Committee expects the Secretary to adhere to this provision. Furthermore, the Committee expects the Secretary to allow potato growers the opportunity to comment on the issuance of such potato policies, including pilot programs.

#### *Section 104. Assigned yields*

Requires the FCIC to assign a yield if a producer does not have an actual production history (APH) for an agricultural commodity. The assigned APH takes into account lack of actual production histories for beginning farmers and farmers who have either added land or who have an established history of rotating crops on the same acreage within a crop year.

By allowing FCIC to determine yields in the case of producers that have not had a share of the production of the insured crop for more than 2 crop years, that produce a commodity on land that has not been farmed by the producer, and that rotate crops, the Committee is attempting to provide fairness to newer producers or individuals producing new crops or farming new land. The Committee urges FCIC to apply a common-sense approach to implementation of this section. In assigning such yields, FCIC should ensure that producers are not taking undue advantage of favorable policies by obtaining unrealistic and unreasonably high yields primarily for the purpose of enrolling the commodity into the crop insurance program.

#### *Section 105. Multi-year APH adjustment*

Defines a multi-year disaster as years in which a producer (or a successor entity through which the APH of the producer can be traced) has suffered a natural disaster regarding an agricultural commodity in at least 3 of the preceding 5 years, resulting in a cumulative APH reduction of at least 25 percent. A producer that qualifies may exclude one year of APH for every five years of APH established by the producer. During this time, the producer's APH may increase without limit up to the level that existed immediately preceding the multi-year disaster. The APH adjustment sunsets when the producer's APH has increased to the level that adequately insures against natural disasters. Requires the FCIC to assume the increased costs created because of this adjustment. Effective for the 2001–2004 reinsurance years.

In 1998, Congress passed an agricultural relief package to assist farmers and ranchers suffering from repeated years of disaster because the crop insurance system did not adequately manage risk for those producers. Since the crop insurance reform of 1994, some areas have experienced an unprecedented series of natural disasters. During several of the years since 1994, many farmers have seen their crop yields drop significantly below normal and, as a result, their Actual Production Histories—the basis of crop insurance

coverage—have declined to levels below that of meaningful production risk management. These declines are an unintended consequence of the 1994 reform. The Committee stresses that these declines have virtually nothing to do with a farmer's management decisions or other factors within the control of the farmer.

The Committee expects RMA to avoid the taxpayer identification problem it experienced when implementing the multi year disaster program in 1998, and has included specific legislative language to guide the agency on this matter.

The Committee expects FCIC to ensure that producers understand the implications of any election under this section relative to the impact, if any, on insurable yields and premiums. With respect to the application of subparagraph (E), termination of exclusion authority, it is the opinion of the Committee that FCIC does not currently provide crop insurance that adequately insures against natural disasters that occur in multiple crop years. Before FCIC makes a determination that such insurance is available and adequate, the agency should outline how policies have changed to better insure against multiple crop year disasters and obtain the approval of the Committee.

*Section 106. Noninsured crop disaster assistance program (NAP)*

Allows different varieties of a commodity to be considered a single commodity for purposes of NAP. The sales closing date for NAP coverage is March 15. Payment of a service fee is required that is the lesser of (1) an amount equivalent to the administrative fee for catastrophic risk protection or (2) \$200 for a producer in a county, not to exceed \$600. A waiver of the fee is provided for limited resource producers. Requires reporting of acreage, etc. at the time of payment of the fee. The service fee is to be deposited into the Commodity Credit Corporation Fund. Authorizes the Secretary to provide assistance without any requirement of an area loss. Creates system of assigned yields for producers planting crops that are new to an area, allowing these new crops to be eligible for NAP coverage. The acreage threshold for a prevented planting NAP payment is reduced from 35% to 15%. Effective for the 2001–2004 reinsurance years.

The Committee is aware that concerns with the Noninsured Assistance Program (NAP) are among the strongest complaints of specialty crop producers. The Committee believes producers of non-insurable crops should have a program available to them that works and allows them to manage risk. It is the intent of the provision to provide the producers of specialty crops the same coverage available to crops otherwise eligible for the crop insurance program. By modifying the area trigger requirement and implementing a modest fee, the NAP program will become more closely aligned with CAT coverage. The Committee expects these changes to lead to additional crops moving from NAP to the crop insurance program and encourages the Secretary to take steps to meet this goal. It is the intent of the Committee that with respect to reduced coverage and temporary ineligibility, the provision would apply when the new specialty crop was planted or would be projected to be planted within a rotation practice.

## TITLE II—RESEARCH AND PILOT PROGRAMS

*Section 201. Research and pilot programs*

Consolidates the authorities for pilot programs and research into a new section 522 of the Federal Crop Insurance Act. Pilot programs and research regarding livestock are authorized as of October 1, 2000, and pilot programs are authorized to be carried out on a regional, state, or national basis. Funds new research and pilot programs established during the 2001–2004 reinsurance years—\$20 million for 2001, \$40 million for 2002, \$60 million for 2003, and \$80 million for the 2004, reinsurance years.

This section includes a requirement that the FCIC contract with a qualified person to study whether offering insurance plans that cover multiple years can reduce fraud and abuse. Currently, federal crop and revenue insurance policies provide coverage for one crop year at a time. Some in the insurance field believe that offering plans of insurance that provide coverage for multiple years might reduce the potential for fraud and abuse by persons that participate in the federal crop insurance program. The Committee believes that a feasibility study of this idea is warranted.

The Committee has included language to allow the Corporation to provide pilot programs that allow producers to receive premium discounts for using whole farm units or single crop units of insurance and which allow the crossing of State and county boundaries to form insurable units. The Committee encourages the inclusion of several states, including Minnesota, in any pilots involving this authority.

In carrying out this section, the Committee expects FCIC to consider livestock pilot programs already under development by the private sector. The Committee is aware of a pilot revenue insurance project for pork and beef producers under development at Iowa State University which would use current futures market prices to estimate the expected gross profit farmers expect to earn on each animal planned for sale. Gross profits per hog would equal the current live hog futures price less the 13.22 bushels of corn and 188.52 pounds of supplement required to feed each hog to market. Estimated gross profits per steer and heifer would be based on the live cattle futures price less the 48.2 bushels of corn required to produce a slaughter-ready animal. Farmers would register a proposed number of slaughter-ready hogs or cattle they plan to market during a period of months for coverage with an insurance agent, with cost per animal calculated on a per-animal rate. Livestock farmers who produced corn and soybeans would be allowed to combine crop and livestock coverage under a single policy. This product would be reinsured on futures markets and would not expose the Risk Management Agency to indemnity risk.

In pursuing revenue insurance pilot programs for “whole farm units,” the Committee expects the Department to encourage development of whole farm coverage of both crop and animal production and marketing on a gross revenue basis. Revenue from all agricultural enterprises on the farm should be covered, including crops and livestock that are not yet otherwise insurable. The Committee is aware of difficulties faced by highly diversified operations in obtaining adequate insurance coverage and, therefore, it is the Com-

mittee's intent that a whole farm pilot program should be available in all regions of the country, including areas already extensively served by other, crop-specific revenue insurance products. The Committee also encourages the Department to incorporate diversification and conservation incentives into whole farm coverage where appropriate.

The Committee is aware that the Risk Management Agency has used existing research and education funds to provide a grant to Kansas State University to fund risk management clubs throughout the State of Kansas. The Committee believes these clubs play an important role in providing information to producers regarding the range of risk management opportunities available, and the Committee expects the Secretary to continue funding for this important partnership.

Current law prohibits federal policies for livestock insurance coverage. The pilot authority includes language to allow livestock policies to be conducted on a pilot basis. The Committee is aware that some sectors of the livestock industry have expressed concern with this proposal and recommends that the Secretary allow comment on pilot proposals regarding livestock insurance policies.

*Section 202. Research and development contracting authority*

Authorizes the FCIC to establish contracts and grants on a competitive basis, and reimburse costs, associated with a pilot program or research. Requires the FCIC to contract with qualified persons to develop alternative rating methodologies. Priority is given to insurable commodities with the largest average acreage nationally and the lowest percentage of producers purchasing coverage (for the commodity). Authorizes \$2.5 million for alternative rating methodology studies for the 2001–2004 reinsurance years. Establishes research regarding a pasture, range, and forage program as a top priority. Requires research to determine whether plans of insurance that provide multi-year coverage would reduce fraud and abuse.

The Committee believes that minority and small-scale farmers continue to be underserved by the Federal crop insurance program. Accordingly, the Committee expects that the Corporation will give priority to allocating resources to undertaking outreach and education projects to assist minority and small-scale farmers. Further, we expect that community-based organizations with demonstrated experience in serving such farmers, as well as private sector organizations with similar experience, will be considered as eligible recipients for grants or cooperative agreements to conduct these outreach and education projects.

In carrying out this section, the Committee encourages the FCIC to enter into contracts with qualified persons to review and analyze premium rates with emphasis on geographic areas where producer participation in buy up insurance coverage has been relatively low. The Committee also encourages RMA to enter into contracts to review and analyze premium rates for individual commodities with a priority given to soybeans due to that commodity's large national acreage.

The Committee recommends that when reviewing methodologies for rating plans of insurance the Corporation should review the

possibility of insuring the smallest farm units without premium rate increases.

*Section 203. Choice of risk management options*

*Establishment of pilot program.* Requires the FCIC to establish a pilot program for the 2002 through 2004 reinsurance years in which a producer may, for each crop produced by the producer in an applicable year, elect to receive a risk management payment or a crop insurance subsidy. Only agricultural commodities that are insurable under Federal crop insurance are eligible for risk management payments. The Secretary of Agriculture is required to select commodities eligible for risk management payments in a manner that encourages maximum producer participation, provides for a mixture of program, specialty, and regional crops, and gives consideration to commodities with low crop insurance participation rates. The amount of a risk management payment in an applicable year depends on a producer's yield for the commodity for the applicable year. A producer must elect by the sales closing date for the agricultural commodity involved whether to receive a risk management payment for the commodity or to be eligible to receive crop insurance subsidies for additional or catastrophic risk protection coverage. A producer can receive a risk management payment in exchange for performing at least 2 qualifying risk management practices in the applicable year.

*Determination of risk management payment.* The Secretary shall consider the producer's expenditure on the qualifying risk management practices obtained or used for the applicable year when determining the amount of the risk management payment for an agricultural commodity. A risk management payment may not exceed the amount equal to the average for all catastrophic risk protection policies for the previous year. Not more than \$500 million from the Insurance Fund is authorized to carry out this pilot program for the 2002–2004 reinsurance years, of which not more than \$200 million can be spent on the pilot in any one year. Expenses incurred by insurance companies while administering this pilot are to be paid from discretionary appropriations.

*Qualifying risk management practices.* Describes the 12 qualifying risk management practices. A producer must perform or obtain at least 2 of the following 12 options in each year a risk management payment is received. Two of the four categories must be represented each year.

*I. Crop insurance category*

1. Purchase an unsubsidized Federal plan of insurance or private crop insurance (e.g.—private crop hail) for an agricultural commodity.

*II. Marketing risk category*

2. Future or Option—Hedge price, revenue, or production risk by entering into at least one standard exchange-traded contract for a future or option on a principal agricultural commodity (crops or livestock) produced on the farm.

3. Agricultural Trade Option—Hedge price, revenue, or production risk on at least 10% of the value of a principal agricultural

commodity produced on the farm by purchasing an agricultural trade option.

4. Cash Forward or Other Marketing Contract—Cover at least 20% of the value of a principal agricultural commodity (crops or livestock) produced on the farm with a cash forward or other type of marketing contract.

5. Marketing Through Cooperatives—Market 25% of a principal agricultural commodity produced through a cooperative that is owned by agricultural producers.

### *III. Financial risk category*

6. Trust—Deposit at least 10% of the producer's payment under the Agricultural Market Transition Act into a FARRM account, or a similar tax deductible account.

7. Agricultural Marketing and Risk Management Education—Attend an agricultural marketing or risk management class. This includes, but is not limited to, a seminar or class conducted by a broker licensed by a futures exchange.

8. Financial Risk Reduction—Reduce farm financial risk by reducing debt in an amount that reduces leverage or by increasing liquidity, as determined by the Secretary.

9. Diversification—Reduce farm business risk by—(1) diversifying the farm's production by producing at least one new commodity on the farm; (2) significantly increasing the diversity of enterprises on the farm; (3) maintaining an integrated farming system with a substantial degree of diversification; or (4) transitioning to organic farming.

### *IV. Farm resources risk category*

10. Conservation Practices—Implement conservation practices such as integrated pest management, nutrient management, conservation tillage, conservation buffers, or other conservation practices, as determined by the Secretary.

11. Agricultural Conservation Management Plan—Employ a private consultant, including a farm manager, certified crop advisor, engineer, or other specialist approved by the Secretary, to assist a producer in developing a plan to mitigate financial risk associated with resource conservation through practices such as nutrient management, integrated pest management, soil erosion control, conservation buffer practices, soil residue management, water quantity or quality management, or other conservation practices that are appropriate for the farm, as determined by the Secretary.

12. Agricultural Resource Improvements—Invest in the improvement or development of a capital land improvement to reduce production risk, such as irrigation management, watershed management structures, planting trees for windbreaks or water quality, soil quality management options, animal waste management structures, or other land improvements, as determined by the Secretary.

The Committee realizes that some producers do not participate in the crop insurance program or believe the program does not serve their needs. The Committee believes that even if producers do not participate in crop insurance, they should be encouraged to undertake risk management activities that reduce a producer's risk and possible calls for disaster assistance legislation in the future.

The 2001 crop year is not included due to the administrative actions necessary to enact the pilot and due to the Committee's desire to ensure that all commodities have equal opportunity to be included in each year of the pilot. The Committee intends and fully expects the Secretary to operate this pilot nationally on a commodity-by-commodity basis to include program, specialty, and regional crops. Payments are not intended to be offered on a whole farm basis. In addition, if the Secretary determines that a commodity will be eligible for risk management payments, the payments must be made available in all areas of the country where the selected commodity is insurable. In carrying out this section, the Committee expects the Secretary to include as many commodities in the pilot as possible.

The Committee fully intends for producers to make a "choice" in regards to their risk management decisions. When the Secretary determines a commodity is eligible for risk management payments, a producer must choose between receiving either a risk management payment or a federally subsidized crop insurance policy, including either buy-up or catastrophic levels of protection. Under no circumstances does the Committee intend for a producer to receive both a risk management payment and a subsidized crop insurance policy on the same crop in the same year. This provision does not preclude a producer from purchasing an unsubsidized crop insurance policy and encourages the Secretary to recommend this course of action to producers who receive risk management payments. The Committee also intends for producers to be allowed to take payments on an eligible commodity and purchase crop insurance on all other crops.

The Committee intends for payments to be available for all insurable crops, excluding livestock. The Committee expects the Secretary to develop a payment formula that is based upon and takes into consideration expenditures on the risk management practices obtained or used by the producer.

The Committee expects the pilot program to be administered by the Risk Management Agency (RMA) through approved insurance providers and crop insurance agents. No other agency of the Department is to be involved in the administration of this pilot or any activities of the federal crop insurance program. Producers will be required to submit verification to ensure the required risk management activities have occurred for payments received. The Committee expects the Secretary to develop an adequate certification and verification process. The Secretary is also given clear authority by the Committee to conduct random audits, to ensure compliance, and to levy heavy penalties to any producer found to have purposely committed fraud in this program. The bill authorizes sufficient appropriations to conduct necessary administrative requirements of the pilot.

With regard to agricultural conservation management plans, it is the Committee's intent that the producer may develop such a plan (not to be confused with NRCS conservation compliance plans) with assistance from the Natural Resources Conservation Service, Cooperative Extension Service, state agencies, farm and other non-governmental organizations, private crop consultants, or any other qualified technical assistance provider the producer chooses.

*Section 204. Conforming amendments*

This section contains conforming amendments made necessary by sections 201–203.

TITLE III—ADMINISTRATION

*Section 301. Board of directors of corporation*

Restructures the FCIC Board of Directors to include four active producers (selected from four geographic regions), one member active in crop insurance, one member active in reinsurance, the Under Secretary for Farm and Foreign Agricultural Services, the Under Secretary for Rural Development and the Chief Economist of USDA. Members to serve staggered 4-year terms. Requires that the Board chairperson be a nongovernmental member. Effective October 1, 2000, authorizes a staff experienced in quantitative mathematics and actuarial rating to assist the Board. Provides \$0.5 million of mandatory funding in fiscal year 2001 for initial needs. The Office of Risk Management is required to transfer \$0.5 million in 2001 and \$1 million annually thereafter to fund the staff. The current procedure for the Board to consider and approve submissions for private plans of insurance for Federal subsidy and reinsurance (currently in section 508(h) of this Act) is reformed. The reforms to the subsection (h) private submissions procedure articulate the standards that the Board is to apply to its review of the proposed products, and expedites the review and approval process. A private company that obtains approval from the Board for a new product is entitled to charge other approved insurance providers that want to sell the approved product a fee (see section 307).

The legislative language devoted to the establishment of an executive director and supporting staff for the Board of Directors of the FCIC (the Board) reflects the sense of urgency that members of Congress feel regarding the need to improve the products and delivery of federal crop insurance. It is felt that for the Board to carry out its oversight duties in a manner that serves the best interests of American agriculture, a more timely and adequate support of Board activities is essential.

Support of the Board needs to be timely, professional, and responsive. To accomplish this high level of support, it is observed that additional resources beyond the normal staff levels found in the Risk Management Agency (RMA) and independent of RMA, are essential for the Board to operate in an efficient and effective manner.

Expectations of the executive director and staff include, but are not confined to, professional objective analysis of all materials presented for action and review by the Board, review of materials presented to the Board by outside organizations, and the timely delivery of adequate briefing materials in preparation for board meetings and other activities. In addition to adequate and timely analytical work, it is understood that with the guidance of the Board, the executive director and staff will interact and cooperate, as required, with other entities where this interaction is deemed essential to accomplishing the responsibilities of the Board. Examples of entities that should be interacted with on a regular basis include the management and staff of RMA, the members and staff of the

Federal Crop Insurance Improvement Commission, and private sector organizations and firms representing the crop insurance industry.

The suggested location for the executive director and staff is within the Office of the Chief Economist. The Chief Economist reports directly to the Secretary of Agriculture, and the language now provides for the appointment of the Chief Economist to the Board. The Chief Economist is presently responsible for several highly graded, specialized professional staffs, including the World Agricultural Outlook Board, the Office of Risk Assessment and Cost-Benefit Analysis, and Global Change Program Office, and the new staff would fit in well with the present organizational structure of the office. Cooperation between the Office of the Chief Economist and RMA is well established, and it is believed that the added resources devoted to the analysis of crop insurance, under the direct supervision of the Chief Economist, would enhance that cooperation.

This section clarifies the new product approval process. The Committee has been disappointed with the lack of policies submitted by the private sector and approved by the FCIC Board of Directors and believes that innovation in the private sector has been stifled by an unfriendly regulatory process. The Committee intends to clarify that the Risk Management Agency's role in new product approval is to work as a partner with the private sector in a spirit that encourages a more market-driven program.

By expanding the product approval process under section 508(h), the Committee expects FCIC to implement a standard and equal process for approval of both privately and publicly developed policies. Through the administrative changes made under this section, the Committee expects that many of the innovative policies for new crop or livestock insurance that have come to its attention will be submitted and approved for sale.

#### *Section 302. Good farming practices*

Currently, insurance coverage for losses due to negligence or malfeasance of the producer, failure to follow reseeding practices customary for the area, or the failure to follow good farming practices, is denied. The amendment made by this section clarifies that good farming practices include scientifically sound sustainable and organic farming practices.

The Committee is aware of anecdotal reports from producers utilizing sustainable or organic farming systems that describe discriminatory treatment resulting from narrow definitions of "good farming practices" that fail to adequately recognize non-conventional farming methods. By clarifying that "good farming practices" includes "scientifically sound sustainable and organic farming practices," the Committee intends for the Department to develop guidelines that will minimize any such future discrimination.

The Committee also encourages the Department to continue and increase efforts to involve crop insurers, lenders, and other farm-related businesses in educational and training activities exploring alternative farming systems and opportunities.

*Section 303. Sanctions for program compliance and fraud*

A producer that provides false or misleading information about a crop insurance policy may be assessed a \$10,000 civil penalty for each violation, debarred from all USDA financial assistance programs for up to 5 years, or both, depending on the severity of the violation. Agents, loss adjusters, and approved insurance providers that provide false or misleading information about a policy or the administration of a policy or claim may be subject to civil fines up to \$10,000 per violation, and debarred from participating in insurance programs under this Act for up to 5 years, depending on the severity of the violation. The same penalties may apply to agents, loss adjusters, and approved insurance providers who have recurrent compliance problems.

*Section 304. Oversight of agents and loss adjusters*

Requires the Corporation to develop procedures for annual reviews of agents and loss adjusters by the approved insurance provider, and to consult with the approved insurance provider about each annual evaluation.

Clearly, the presence of fraud and abuse in the crop insurance program is a major concern to the Committee. FCIC should use the tools provided in sections 303 and 304 to improve program compliance and oversight and to punish those determined to have committed fraud and misrepresentation. However, the Committee stresses that it is often the nature of the insurance policy that is offered and the circumstances under which producers and agents can benefit from that policy that leads to perceived instances of fraud and abuse. Substantial and overly ambitious penalties will often not remedy abuses that are natural outgrowths of poorly developed and implemented plans of insurance. The Committee strongly urges FCIC to develop a meaningful and thorough program of oversight for agents and loss adjusters. The Committee also urges FCIC, in consultation with FSA, to improve its oversight of the development of insurance policies in order to prevent the issuance of policies that, on their face, defy common-sense application in particular growing areas and invite what is often deemed to be "abuse."

*Section 305. Adequate coverage for agricultural commodities*

The phrase 'adequately served' is defined in this section as meaning having a participation rate that is at least 50% of the national average participation rate. The Board is required to review available plans of insurance to determine if each state is adequately served, and then report its findings to Congress. The Board is further directed to make recommendations to RMA about how participation can be increased in states that are not adequately served.

In order for the federal crop insurance program to serve all regions equitably, this provision requires the Board of the FCIC to conduct an annual review to assess whether available plans of insurance serve each commodity adequately. The study should specifically consider the coverage of specialty crops, and states with low participation like Pennsylvania.

The Committee fully expects that the annual study submitted to Congress will make recommendations to develop, or contract for

the development of, insurance plans to reach the commodities that are found to be underserved. For the purpose of this provision, a commodity is considered to be underserved if the state has a participation percentage that is less than 50 percent of the national average. The goal of these annual reviews is to develop recommendations for the consideration of the Risk Management Agency and Congress to achieve the goal of adequate coverage.

The Committee is concerned that crop insurance coverage is currently not available for continuous crop wheat in Morton, Stanton, Stevens, Grant, Seward, Haskell, Finney, Kearney, Hamilton, Greeley, Wallace, Wichita, Scott, and Lane counties in Kansas. The Committee fully expects the establishment of coverage for this area. This problem is particularly acute since similar coverage is available in the contiguous counties of Colorado and Oklahoma.

#### *Section 306. Records and reporting*

Requires the FCIC, the Farm Service Agency, and State and local committees of USDA to coordinate record keeping and reporting requirements for crop insurance and the Noninsured Crop Disaster Assistance Program.

To meet the requirements of this section, the Secretary is directed to use the Center for Agribusiness Excellence at Tarleton State University and the Center for Agribusiness and Agrotechnologies at Bradley University. The Manager's intent is that the Secretary, using FY2000 funds, contract with these two Centers for management and development of a system to implement the requirements of this section. These funds would be used to improve program compliance and effectiveness and eliminate fraud through the use of information technologies, specifically data warehousing and data mining technologies.

The Committee intends for insured producers participating in the crop insurance program to provide records regarding crop acreage, acreage yields, and production to the Secretary. Producers currently report crop and yield information to both FCIC and FSA. Inconsistent data have been reported to FCIC and FSA and benefits have been paid on inconsistent data. The Committee intends for insured producers to report crop acreage, yield, production and other records in a manner that may be easily reconciled, ensuring program and insurance benefits are paid on consistent data. The records collected under this authority should be available at no cost to all federal and state agencies, including state subdivisions, for use in carrying out activities, including assisting state organizations in carrying out general agricultural programs that have a federal component (for example, boll weevil eradication activities). The Committee intends for producers requesting noninsured crop disaster assistance program benefits to annually file, crop acreage reports, acreage yields and production for each crop eligible for assistance. The annual collection of this information should enhance information available for the development of future insurance policies. As a result of producers filing annual reports, USDA will have the information provided at a time that insures appropriate program oversight and integrity.

*Section 307. Fees for plans of insurance*

Establishes a system of fees that an approved insurance provider must pay to a company that developed the policy if the provider wants to sell the policy through Federal crop insurance.

*Section 308. Limitation on double insurance*

Prohibits the purchase of a policy of insurance for more than 1 crop for the same acreage in a year, except where there is an established history of double-cropping on the acreage.

The Committee recognizes that it is a legitimate farming practice to double-crop certain crops in specific regions of the country. However, unless the outlined exceptions are applicable, it is the Committee's intention to limit coverage to catastrophic risk protection on the additional crop.

Since it is possible for the same crop to be planted on a farm and subject to different plans of insurance, the Committee intends that FCIC ensure the crop acreage and production of the same crop that is insured under different plans of insurance is separately reported, maintained, and identified. It is not the Committee's intention that the acreage or production may be prorated between the same crop with different plans of insurance.

It is the intention of the Committee that in determining when the additional agricultural commodity is customarily double-cropped in the area with the first agricultural commodity, that FCIC consider whether it is customary to double-crop the acreage considering the farming and irrigation practices applicable to the crops in the area.

The Committee intends that to qualify for the double-cropping exception, both the first and additional agricultural commodities be normally harvested within the same crop year on the same acreage. The disposition of the first agricultural commodity, including the loss or failure of such commodity, should not affect the determination of whether the first and additional crop qualifies for the double-cropping exception.

The Committee expects RMA to resolve a problem with double cropped soybeans that continues to frustrate producers in Illinois. Producers who plant a three year rotation of corn, soybeans, then wheat followed by no-till soybeans in the same year find themselves ineligible for crop insurance on the no-till soybeans. RMA's current interpretation is that a producer may purchase crop insurance on the soybeans only if he or she has a 3-year crop history of only double cropped soybeans. The Committee urges RMA to resolve this problem expeditiously and in a way that continues to encourage producers to follow best management practices.

*Section 309. Specialty crops*

Consolidates all authorities regarding specialty crops in a new section 523 of this Act. Authorizes the FCIC specialty crops coordinator to make competitive grants for research, reimburse research costs, or enter into contracts for the development of specialty crop policies. Authorizes the use of up to \$20 million annually for the 2001–2004 reinsurance years to create partnerships with public and private entities with demonstrated abilities for developing and implementing specialty crop risk management options. Requires

the specialty crops coordinator to study the feasibility of offering cost-of production, adjusted gross income, quality-based policies, or an intermediate program with higher coverage than catastrophic risk protection, for specialty crops. For the 2001–2004 reinsurance years, the sales closing date for obtaining coverage for a specialty crop may not expire prior to 120 days after the release of materials on new plans of insurance for specialty crops. A producer of a specialty crop may purchase new or additional insurance coverage for the crop at any time during the insurance year, subject to a 30 day waiting period for verification.

*Section 310. Federal crop insurance improvement commission*

A new ad hoc commission is established, comprised of 4 Government officials and 5 persons from the private insurance industry. The Commission is to review several issues involving Federal crop insurance, such as:

The extent to which approved insurance providers should bear the risk of loss for federally subsidized crop insurance.

Whether the Corporation should continue to reinsure coverage written by approved insurance providers; or provide assistance in another form, such as by acting as an excess insurer.

The extent to which development of new insurance products should be undertaken by the private sector, including development of insurance products for specialty crops.

Methods to improve the Federal Crop Insurance program, such as delivery of plans of insurance, loss adjustment procedures, the establishment of premiums, and compliance.

The Commission is to file a final report with Congress that contains its findings within 2 years. \$4,000,000 annually is authorized from the Insurance Fund to fund the Commission. Authority for the Commission terminates on the date that is 60 days after the filing of the final report, or September 30, 2003, whichever is earlier.

*Section 311. Highly erodible land and wetland conservation*

This section reestablishes conservation compliance (compliance with sodbuster and swampbuster requirements) as a prerequisite for subsidy under either a plan of catastrophic risk protection or additional coverage.

In reapplying the conservation requirements to crop and revenue insurance coverage, and in applying them to the new risk management payments, it is the Committee's intent that the Department implement these requirements in the exact same manner in which it currently applies them to other USDA programs. The Committee encourages the Department to inform producers of the requirements as quickly as possible, especially those who may not currently be implementing approved conservation plans.

TITLE IV—EFFECTIVE DATES; TERMINATION OF AUTHORITY

*Section 401. Effective dates*

Establishes when various provisions of this Act become effective. Section 401(c)(2), voids the FCIC's Board of Director's decision to

revise the terms of the 1999 Crop Revenue Coverage policy for durum wheat.

In February, 1999, the Risk Management Agency (RMA) issued a manager's bulletin that revised the terms of the Crop Revenue Coverage (CRC) policy for durum wheat. The Committee voids this decision because the policy was revised after the contract change date had passed, after many farmers had relied on the policy, and without publishing the changes in the Federal Register, which is required by law. The Committee believes allowing the agency's action to stand would fundamentally undermine farmers' confidence in the crop insurance system. Farmers sued RMA and won in federal court, but this decision has been appealed by the Federal government. 401(c)(2) would provide these farmers with legal certainty, regardless of the outcome of any appeal, about the disputed terms of last year's policy. Most importantly, the provision confirms the Committee's endorsement of a reliable crop insurance system with policies that farmers can trust will not be changed after the government's change date. The Committee believes that once RMA offers a policy, it cannot unilaterally change the policy's terms after the change date. RMA's action surrounding this policy removes any certainty that producers can count on reliable, stable crop insurance policies. Even though the agency lost in federal court, RMA currently believes it can unilaterally downgrade and change any policy at any time. The Committee strongly disagrees. 401(c)(2) signals to RMA that it can't do to soybean, cotton, corn, rice or any other producers what it did to durum wheat farmers. However, the legislative effect of 401(c)(2) is quite limited. The provision does not restrict RMA's ability to broaden the terms of policies. RMA would always be able to make administrative changes to benefit farmers. Although it sends broad messages to protect other commodities, the provision would actually affect only last year's durum wheat CRC policy. It makes no changes in existing or future policies on this or any other crop. The Committee urges RMA to release the funds in the court's escrow account as soon as possible.

#### *Section 402. Termination of authority*

Terminates as of September 30, 2004, all increased funding and associated program reforms applicable to the 2001–2004 reinsurance years for crop insurance and risk management payments.

### III. LEGISLATIVE HISTORY AND VOTES IN COMMITTEE

In 1999, the Committee held four hearings and a farm risk management roundtable to prepare for this legislation. Witnesses representing farm groups, agricultural lenders, and the crop insurance industry were, for the most part, in strong agreement that this legislation should increase premium subsidies to make federal crop and revenue insurance more affordable to farmers, particularly at the higher levels of coverage. Farm group witnesses from Great Plains and Midwestern states also supported equalizing premium subsidy rates between revenue and yield-only insurance coverage. While there was broad support for raising premium subsidies, some agricultural economist witnesses cautioned that such increases would provide the largest benefit to producers in high yield-risk re-

gions and might encourage farmers to expand crop production which could, in turn, reduce farm prices.

Many farm group witnesses, particularly those from Great Plains states, supported changes to the federal crop insurance program's actual production history (APH) system which is used to establish a producer's insurable yield for each year. These farm group witnesses wanted changes to eliminate reductions in APH yields caused by successive years of bad weather beyond a producer's control. Other farm group and crop insurance industry witnesses, who credited the APH system with helping to improve the program's actuarial soundness, suggested modest rather than large changes in APH procedures. Several farm group witnesses supporting authorizing insurance coverage based upon cost of production.

Farm group witnesses from southern states raised concerns about the level of premium rates faced by producers of cotton and other commodities grown in the region. They strongly supported legislation requiring the FCIC to develop alternative rating methodologies. These witnesses also supported changing prevented planting rules, particularly with respect to the planting of a substitute crop, increasing the insurance program's flexibility to make it easier for farmers to use crop rotations or to switch to alternative crops, and improving program oversight to reduce the potential for fraud and abuse. An April 1999 hearing focused on compliance issues raised by a report issued by the Department of Agriculture's Office of the Inspector General. Farm group witnesses from southern states generally supported increased premium subsidies for yield coverage.

Witnesses representing specialty crop producers supported an end to the requirement of an area loss before disaster assistance can be made to producers of non-insurable crops through the non-insured crop disaster assistance program (NAP). Specialty crop growers also testified in support of focused research, development, and contracting authority to speed the development and implementation of insurance policies designed to meet specialty crop producers' risk management needs.

Farm group and crop insurance industry witnesses supported changes to the FCIC Board of Directors to allow for more private sector input and more independent authority, particularly with respect to the approval of new crop insurance products and certain other decisions. These witnesses also supported creating incentives and streamlining the Federal Crop Insurance Act's section 508(h) approval process to encourage the development and implementation of new private sector developed insurance products. Some witnesses supported extending federal insurance coverage to livestock producers. Others supported further development of the concept of insuring revenue on a whole farm rather than on a commodity-by-commodity basis. Farmer-owned cooperatives expressed support for legislation that would allow them to sell Federal crop insurance policies to their members. Private crop insurance agents strongly opposed this idea.

On March 4, 1999, Senator Roberts introduced S. 529, the Crop Insurance for the 21st Century Act with Agriculture Committee Senators Baucus, Conrad, Craig, Daschle, Grassley, Harkin, Johnson and Kerrey as cosponsors. S. 529 raised premium subsidy rates

for yield and revenue coverage, particularly at the highest levels of coverage, allowed for APH adjustments for multi year disasters, authorized livestock insurance, and provided for numerous other reforms of the Federal crop insurance program. On March 16, 1999, Senators Baucus and Craig introduced S. 629, the Crop Insurance Improvement Act of 1999 which, among other things, eliminated current law's requirement of an area-wide loss before producers of noninsurable crops can qualify for disaster assistance payments under the NAP.

On September 13, 1999 Senator Roberts introduced S. 1580 which incorporated S. 529, except that the provision authorizing insurance coverage for livestock was limited to a pilot project. S. 1580 also included the Baucus and Craig bill's NAP provision, several provisions to encourage the development of specialty crop insurance products from Senator Graham's S. 1401, the Specialty Crop Insurance Act of 1999, and a new provision intended to encourage the Risk Management Agency to increase crop insurance participation in low participation states such as Pennsylvania.

#### AGRICULTURE COMMITTEE

With the addition of Senator Santorum, a total of ten Agriculture Committee Senators cosponsored S. 1580.

Senator Cochran introduced S. 1108, the Crop Insurance Equity Act of 1999, with Agriculture Committee Senators Coverdell, Helms, and Lincoln as cosponsors on May 24, 1999. S. 1108 increased premium subsidy rates to 50% at all buyup levels for yield-only coverage, but not revenue coverage. Among other provisions, S. 1108 required RMA to develop alternative premium rates, reformed prevented planting rules, made APH adjustments for multi year disasters, increased catastrophic (CAT) coverage from 50% of normal yield and 55% of normal price (50/55) to 60/70, authorized cooperative associations to sell crop insurance to their producer members, and limited private insurer administrative expense and underwriting gains on catastrophic policies.

Senator Lugar introduced S. 1666, the Farmers' Risk Management Act of 1999 on September 29, 1999 with cosponsors Senators Helms, McConnell, and Fitzgerald. Senator Leahy became a cosponsor on October 14, 1999 and Senator Cochran became a cosponsor on November 11, 1999. Instead of raising crop insurance premium subsidies, S. 1666 directed the Secretary of Agriculture to offer producers with a history of insurable crop production, annual risk management payments for the four crops years covering 2001 through 2004. In exchange for a payment, the bill required producers to use or obtain at least two of eight possible risk management practices each year. These practices included the purchase of Federal crop insurance, forward contracting, hedging with an exchange-traded future or option contract, depositing a portion of the payment into a tax-deferred FARRM account, and reducing debt. Farmers who elected to receive a risk management payment were also eligible for current law premium subsidies on purchases of federal crop insurance. The bill provided \$5.1 billion to fund risk management payments over four years which was expected to result in an annual payment rate of 1.5 percent of historical production value of insurable crops based on 1997–1999 average FCIC estab-

lished market prices. The bill included several crop insurance reform provisions and authorized whole farm revenue and product innovation and competition pilot projects. The bill also limited the potential for private insurer underwriting gains and losses on CAT policies.

#### COMMITTEE VOTE

The Committee met to markup risk management/crop insurance legislation and other matters on March 2, 2000. Senators present were Lugar, Cochran, McConnell, Roberts, Grassley, Santorum, Fitzgerald, Harkin, Leahy, Conrad, Kerrey, Daschle, Johnson, Baucus, and Lincoln.

Chairman Lugar then offered a three-year national choice bill covering the 2001 through 2003 crop years. Under the choice bill, all insurable (as of the end of 1999) commodities, wherever grown, excluding nursery crops and livestock were eligible for risk management payments. For each applicable year, the bill gave farmers a choice between a 1.3 percent annual risk management payment or an increased crop insurance premium subsidy. Farmers who chose a risk management payment in an applicable year remained eligible for current law crop insurance subsidy rates, excluding any special USDA producer premium discount. The crop insurance subsidy rates available under the choice bill are summarized below:

CROP INSURANCE PREMIUM SUBSIDY RATES UNDER THE FARMER CHOICE BILL (PERCENT)\*

	MPCI buyup coverage level							
	50/100	55/100	60/100	65/100	70/100	75/100	80/100	85/100
Farmer chooses higher crop insurance subsidy .....	55.0	50.0	50.0	50.0	50.0	50.0	36.9	27.6
Farmer chooses RM payment:								
Yield-only insurance policy	55.0	46.1	37.8	41.7	31.9	23.5	17.3	13.0
CRC (average) revenue policy** .....	42.3	35.5	29.1	32.1	24.5	18.1	13.3	10.0

\*Subsidy rate per dollar of risk-based premium.

\*\*On average at the same level of coverage, the total premium for Crop Revenue Coverage (CRC) is about 30% greater than for yield-only coverage.

The Chairman's mark also included reforms to the Federal crop insurance program and NAP that were supported by a broad consensus of Committee Senators. The choice bill also included a provision that would have authorized crop insurance sales by producer-owned cooperatives to their farmer members under certain conditions. The Congressional Budget Office scored the national choice bill with mandatory budget authority of \$5,809 million and outlays of \$5,850 million over fiscal years 2001–2004. Of the total budget authority increase, CBO estimated \$2,940 million for risk management payments, \$2,533 million for increased crop insurance spending, primarily due to increased premium subsidies, and \$336 million due to NAP reforms.

Senator Roberts moved to adopt a Roberts/Kerrey substitute amendment to the Chairman's mark based largely upon provisions contained in S. 1580. The substitute amendment included S. 1580's inverted subsidy structure with a 60 percent subsidy rate at the 50/100 level, NAP and crop insurance program reforms supported by

a broad consensus of Committee Senators, and \$500 million for a three-year risk management payment pilot project covering the 2002 through 2004 crops. The substitute amendment did not include the cooperative selling provision that was part of the Chairman's Mark. Following debate, the Committee approved the Roberts-Kerrey substitute amendment on a 10–8 vote. Senators Roberts, Grassley, Craig, Santorum, Harkin, Conrad, Daschle, Kerrey, Johnson, and Baucus voted for the substitute amendment and Senators Lugar, Cochran, McConnell, Helms, Coverdell, Fitzgerald, Leahy, and Lincoln voted against the substitute amendment.

Senator Lincoln then offered the cooperative selling provision as an amendment, but after debate, withdrew her amendment. A Harkin amendment which restored conservation compliance as an eligibility requirement for Federal crop insurance was adopted unanimously. The Committee voted by voice vote to report the bill. The Committee unanimously approved a motion to authorize Committee staff to make technical and conforming changes.

#### IV. REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the standing rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out the Risk Management for the 21st Century Act, as reported.

This legislation primarily constitutes a reform of current provisions of the Federal crop insurance program authorized by the Federal Crop Insurance Act and the noninsured crop assistance program (NAP) authorized by the Agricultural Market Transition Act. The Federal subsidy for crop insurance premiums is also increased.

This legislation does not represent a regulatory measure that imposes a regulatory mandate that must be adhered to by discrete persons in the economy absent their voluntary participation. Persons that voluntarily participate in the Federal crop insurance program or NAP, and who receive benefits from the programs, will be required to comply with regulatory requirements. Such persons include agricultural producers that purchase crop insurance or NAP coverage, or crop insurance companies or agents that administer the programs. Because participation is voluntary, clearly the financial benefits of participation must exceed financial costs or regulatory burdens imposed by this legislation.

Any Government program, which provides financial or other assistance, in the interest of fiscal restraint, must have clearly defined regulatory guidelines and paperwork requirements to insure that the taxpayer's money is conservatively, efficiently and effectively utilized.

While the goal of the reforms and increased subsidies is to increase the percentage of agricultural production and total acreage used for agricultural production that is covered under these programs, it is impractical to estimate the number of persons that would be affected by the regulatory requirements. Except for insurance companies and agents, participation is measured in terms of agricultural production and total acreage used for agricultural production covered by crop insurance or NAP.

Safeguards exist in both programs to preserve the privacy of persons and the confidentiality of information concerning them.

#### V. BUDGETARY IMPACT OF BILL

S. , RISK MANAGEMENT FOR THE 21st CENTURY ACT PRELIMINARY (Not Official) ESTIMATES: SUBJECT TO CHANGE <sup>1</sup>

[Change In Budget Authority & Outlays (In millions of dollars)]

Provision	Fiscal year													
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	01-05	01-10	01-04
103—New Premium Subsidy %: 60, 45, 45, 50, 50, 55, \$@75, \$@75; Coverage at 5% increments only <sup>2</sup>														
Budget authority .....	0	952	988	1,031	1,078	0	0	0	0	0	0	4,059	4,059	4,059
Outlays .....	0	464	951	1,014	1,054	556	20	0	0	0	0	4,039	4,059	3,483
103—Allow Full Prem Sub for 508(h) Rev insur.:														
Budget authority .....	0	105	108	114	122	0	0	0	0	0	0	449	449	449
Outlays .....	0	46	103	111	117	69	3	0	0	0	0	446	449	377
103—Allow Full Prem Sub for other 508(h):														
Budget authority .....	0	57	63	72	86	0	0	0	0	0	0	278	278	278
Outlays .....	0	28	68	67	78	45	2	0	0	0	0	278	278	231
102—Prevented Planting:														
Budget authority .....	0	7	7	7	7	0	0	0	0	0	0	28	28	28
Outlays .....	0	4	7	7	7	3	0	0	0	0	0	28	28	25
105—Multiyear DisasterAPH Adjustment:														
Budget authority .....	0	39	40	41	43	0	0	0	0	0	0	163	163	163
Outlays .....	0	13	39	40	42	29	0	0	0	0	0	163	163	134
106—NAP amendments:														
Budget authority .....	0	107	110	118	123	0	0	0	0	0	0	458	458	458
Outlays .....	0	56	139	115	121	59	(32)	0	0	0	0	490	458	431
201—Research & Pilot Programs:														
Budget authority .....	0	20	40	60	80	0	0	0	0	0	0	200	200	200
Outlays .....	0	10	30	50	70	38	2	0	0	0	0	198	200	160
202—Alternative Rating Methodologies:														
Budget authority .....	0	1	1	0	0	0	0	0	0	0	0	2	2	2
Outlays .....	0	0	1	1	0	0	0	0	0	0	0	2	2	2
203—Choice of Risk Management Options:														
Budget authority .....	0	0	167	167	166	0	0	0	0	0	0	500	600	600
Outlays .....	0	0	167	167	166	0	0	0	0	0	0	500	600	500
301—Board of Directors:														
Budget authority .....	0	1	0	0	0	0	0	0	0	0	0	1	1	1
Outlays .....	0	1	0	0	0	0	0	0	0	0	0	1	1	1

308—Limitation on Double Insurance:														
Budget authority .....	0	(29)	(30)	(33)	(33)	(33)	(36)	(38)	(39)	(42)	(44)	(158)	(357)	(125)
Outlays .....	0	(15)	(29)	(32)	(33)	(33)	(34)	(37)	(39)	(41)	(43)	(142)	(336)	(109)
309—Specialty Crops—Closing Dates:														
Budget authority .....	0	42	43	44	46	0	0	0	0	0	0	175	175	175
Outlays .....	0	20	41	44	45	23	2	0	0	0	0	173	175	150
309—Specialty Crops—Research & Dev. Other:														
Budget authority .....	0	20	20	20	20	0	0	0	0	0	0	80	80	80
Outlays .....	0	9	20	20	20	11	0	0	0	0	0	80	80	69
310—Crop Insurance Commission:														
Budget authority .....	0	5	5	5	0	0	0	0	0	0	0	15	15	15
Outlays .....	0	2	5	5	3	0	0	0	0	0	0	15	15	15
401—Raise CRC Price Guarantee:														
Budget authority .....	20	0	0	0	0	0	0	0	0	0	0	0	0	0
Outlays .....	20	0	0	0	0	0	0	0	0	0	0	0	0	0
Total:														
Budget authority .....	20	1,327	1,572	1,646	1,738	(33)	(36)	(38)	(39)	(42)	(44)	6,250	6,051	6,283
Outlays .....	20	638	1,552	1,609	1,680	800	(37)	(37)	(39)	(41)	(43)	6,269	6,072	5,469

<sup>1</sup> Preliminary estimate based on draft version NED00.058. CBO will need to see final bill and report language before preparing a final estimate.

<sup>2</sup>Based on subsidies for coverage at 5% increments, with subsidy percentages determined by coverage level regardless of price election.

## VI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made in the bill, as reported, are shown as follows: (1) Existing law that is proposed to be terminated is enclosed in black brackets; (2) New material is printed in italic; and (3) Existing law in which no change is proposed is shown in roman font or by \* \* \*.

## AGRICULTURAL ACT OF 1938

## TITLE V. FEDERAL CROP INSURANCE ACT

## SEC. 501. SHORT TITLE AND APPLICATION OF OTHER PROVISIONS.

This title may be cited as the Federal Crop Insurance Act.

\* \* \* \* \*

## SEC. 505. MANAGEMENT OF CORPORATION.

[(a) The management of the Corporation shall be vested in a Board subject to the general supervision of the Secretary. The Board shall consist of the manager of the Corporation, the Under Secretary responsible for the Federal crop insurance program, one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture), one person experienced in the crop insurance business who is not otherwise employed by the Federal Government, and three active farmers who are not otherwise employed by the Federal Government. The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board. The Secretary, in appointing the three active farmers who are not otherwise employed by the Federal Government, shall ensure that such members are policy holders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board.]

(a) BOARD OF DIRECTORS.—

(1) *IN GENERAL.*—*The management of the Corporation shall be vested in a Board of Directors, subject to the general supervision of the Secretary.*

(2) *COMPOSITION.*—*The Board shall consist of—*

*(A) 4 members who are active agricultural producers with or without crop insurance, with 1 member appointed from each of the 4 regions of the United States (as determined by the Secretary);*

*(B) 1 member who is active in the crop insurance business;*

*(C) 1 member who is active in the reinsurance business;*

*(D) the Under Secretary for Farm and Foreign Agricultural Services;*

*(E) the Under Secretary for Rural Development; and*

*(F) the Chief Economist of the Department of Agriculture.*

(3) *APPOINTMENT AND TERMS OF PRIVATE SECTOR MEMBERS.*—*The members of the Board described in subparagraphs (A), (B), and (C) of paragraph (2)—*

*(A) shall be appointed by, and hold office at the pleasure of, the Secretary;*

(B) shall not be otherwise employed by the Federal Government;

(C) shall be appointed to staggered 4-year terms, as determined by the Secretary; and

(D) shall serve not more than 2 consecutive terms.

(4) *CHAIRPERSON.*—The Board shall select a member of the Board described in subparagraph (A), (B), or (C) of paragraph (2) to serve as Chairperson of the Board.

(5) *OFFICE OF RISK MANAGEMENT.*—The Office of Risk Management shall provide assistance to the Board in developing, reviewing, and recommending—

(A) new plans of insurance and pilot projects under this title that are proposed by the Office or by a private insurance provider;

(B) terms of the Standard Reinsurance Agreement;

(C) rates for plans of insurance under this title; and

(D) other issues involved in the administration of Federal crop insurance, as requested by the Board.

(6) *EXECUTIVE DIRECTOR; STAFF.*—

(A) *EXECUTIVE DIRECTOR.*—An executive director appointed by the Secretary, with the concurrence of the Board, shall—

(i) assist the Board, as provided in subparagraph (C); and

(ii) report to the Secretary.

(B) *STAFF.*—

(i) *IN GENERAL.*—A staff of 4 individuals appointed by the Executive Director shall report to the Executive Director.

(ii) *QUALIFICATIONS.*—An individual described in clause (i) (except the Executive Director) shall be knowledgeable and experienced in quantitative mathematics and actuarial rating.

(C) *FUNCTIONS.*—The Executive Director and staff appointed under this paragraph shall—

(i) assist the Board in reviewing and approving policies and materials with respect to plans of insurance authorized or submitted under section 508, 522, or 523;

(ii) provide at least monthly reports to the Board on crop insurance issues, which shall be based on comments received from producers, approved insurance providers, and other sources that the Executive Director and staff consider appropriate;

(iii) review policies and materials with respect to—

(I) subsidized plans of insurance authorized under section 508; and

(II) unsubsidized plans of insurance submitted to the Board under section 508(h);

(iv) make recommendations to the Board with respect to approval of the policies and materials, including recommendations with respect to the disapproval of any policies and materials that contain terms or conditions that promote fraud;

(v) make recommendations to the Board to encourage cooperation between United States attorneys, the Corporation, and approved insurance providers to minimize fraud in connection with an insurance plan or policy under this title;

(vi) review and make recommendations to the Board with respect to methodologies for rating plans of insurance under this title; and

(vii) perform such other functions as the Board considers appropriate.

**(D) FUNDING.—**

(i) **INSURANCE FUND.**—From amounts in the insurance fund under section 516(c)(1), effective for fiscal year 2001, \$500,000 shall be available to pay the salaries and expenses of the Executive Director and staff appointed under this paragraph.

(ii) **SALARIES AND EXPENSES.**—Subject to the availability of appropriations, the Risk Management Agency shall transfer \$500,000 for fiscal year 2001, and \$1,000,000 for each subsequent fiscal year, at the beginning of the fiscal year to the Executive Director for the salaries and expenses of the Executive Director and staff appointed under this paragraph.

\* \* \* \* \*

**SEC. 506. GENERAL POWERS.**

\* \* \* \* \*

(h) **DATA COLLECTION.**—**[THE CORPORATION]** “(1) **IN GENERAL.**—**THE CORPORATION** shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities.

(2) **COORDINATION AND USE OF RECORDS AND REPORTS.**—

(A) **COORDINATION.**—The Secretary shall ensure that record-keeping and reporting requirements under this title and section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) are coordinated by the Corporation and the Farm Service Agency—

(i) to avoid duplication of records and reports;

(ii) to streamline procedures involved with the submission of records and reports; and

(iii) to enhance the accuracy of records and reports.

(B) **USE.**—Records submitted under this title and section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) shall be available to agencies and local offices of the Department, appropriate State and Federal agencies and divisions, and approved insurance providers for use in carrying out this title, that section, and other agricultural programs and related responsibilities.

**[(n) PENALTIES.—**

**[(1) FALSE INFORMATION.**—If a person willfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this title, the Corporation may, after notice and an opportunity for a hearing on the record—

[(A) impose a civil fine of not to exceed \$10,000 on the person; and

[(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this title for a period of not to exceed 10 years.

[(2) ASSESSMENT OF PENALTY.—In assessing penalties under this subsection, the Corporation shall consider the gravity of the violation.]

(n) *SANCTIONS FOR PROGRAM NONCOMPLIANCE AND FRAUD.*—

(1) *FALSE INFORMATION.*—A producer, agent, loss adjuster, approved insurance provider, or other person that willfully and intentionally provides any false or inaccurate information to the Corporation or to an approved insurance provider with respect to a policy or plan of insurance under this title may, after notice and an opportunity for a hearing on the record, be subject to 1 or more of the sanctions described in paragraph (3).

(2) *COMPLIANCE.*—A person may, after notice and an opportunity for a hearing on the record, be subject to 1 or more of the sanctions described in paragraph (3) if the person is—

(A) a producer, agent, loss adjuster, approved insurance provider, or other person that willfully and intentionally fails to comply with a requirement of the Corporation; or

(B) an agent, loss adjuster, approved insurance provider, or other person (other than a producer) that willfully and intentionally fails to comply with a requirement of the Standard Reinsurance Agreement.

(3) *AUTHORIZED SANCTIONS.*—If the Secretary determines that a person covered by this subsection has committed a material violation under paragraph (1) or (2), the following sanctions may be imposed:

(A) *CIVIL FINES.*—A civil fine may be imposed for each violation in an amount not to exceed the greater of—

(i) the amount of the pecuniary gain obtained as a result of the false or inaccurate information provided or the noncompliance with a requirement of this title; or

(ii) \$10,000.

(B) *DEBARMENT.*—

(i) *PRODUCERS.*—In the case of a violation committed by a producer, the producer may be disqualified for a period of up to 5 years from receiving any monetary or nonmonetary benefit provided under—

(I) this title;

(II) the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.), including the noninsured crop disaster assistance program under section 196 of that Act (7 U.S.C. 7333);

(III) the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.);

(IV) the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.);

(V) the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 *et seq.*);

(VI) title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*);

(VII) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*); and

(VIII) any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in the prices of agricultural commodities.

(ii) *OTHER PERSONS.*—In the case of a violation committed by an agent, loss adjuster, approved insurance provider, or other person (other than a producer), the violator may be disqualified for a period of up to 5 years from participating in any program, or receiving any benefit, under this title.

(4) *ASSESSMENT OF SANCTION.*—The Secretary shall consider the gravity of the violation of the person covered by this subsection in determining—

(A) whether to impose a sanction under this subsection; and

(B) the amount of the sanction to be imposed.

(5) *DISCLOSURE OF SANCTIONS.*—Each policy or plan of insurance under this title shall provide notice about the sanctions prescribed under paragraph (3) for willfully and intentionally—

(A) providing false or inaccurate information to the Corporation or to an approved insurance provider; or

(B) failing to comply with a requirement of the Corporation or the Standard Reinsurance Agreement.

(6) *INSURANCE FUND.*—Any funds collected under this subsection shall be deposited into the insurance fund under section 516(c)(1).

\* \* \* \* \*

(q) *PROGRAM COMPLIANCE.*—

\* \* \* \* \*

(3) *OVERSIGHT OF AGENTS AND LOSS ADJUSTERS.*—The Corporation shall—

(A) develop procedures for an annual review by an approved insurance provider of the performance of each agent and loss adjuster used by the approved insurance provider;

(B) oversee the annual review conducted by each approved insurance provider; and

(C) consult with each approved insurance provider regarding any remedial action that is determined necessary as a result of the annual review of an agent or loss adjuster.

(4) *COMPLIANCE REPORTS.*—Not later than the end of each fiscal year, the Corporation shall submit, to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Board, a report concerning compliance by approved insurance providers, agents, and loss adjusters with this title, including any

*recommendations for legislative or administrative changes that could further improve compliance.*

\* \* \* \* \*

**SEC. 508. CROP INSURANCE.**

(a) **AUTHORITY TO OFFER INSURANCE.**

\* \* \* \* \*

(3) **Exclusions.—**

(A) *IN GENERAL.*—Insurance provided under this subsection shall not cover losses due to—

- (i) the neglect or malfeasance of the producer;
- (ii) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or
- (iii) the failure of the producer to follow good farming practices, *including scientifically sound sustainable and organic farming practices* (as determined by the Secretary).

(B) *REVENUE COVERAGE FOR POTATOES.*—No plan of insurance provided under this title (including a plan of insurance approved by the Board under subsection (h)) shall cover losses due to a reduction in revenue for potatoes except as covered under a whole farm plan of insurance, as determined by the Corporation.

\* \* \* \* \*

[(6) **ADDITION OF NEW AND SPECIALTY CROPS.—**

[(A) *DATA COLLECTION.*—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

[(B) *ADDITION OF NEW CROPS.*—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this title to new and specialty crops.

[(C) *ADDITION OF DIRECT SALE PERISHABLE CROPS.*—Not later than 1 year after the date of enactment of this paragraph, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

[(D) *ADDITION OF NURSERY CROPS.*—Not later than 2 years after the date of enactment of this subparagraph, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.]

(6) **QUALITY ADJUSTMENT POLICIES.—**

(A) *IN GENERAL.*—The Corporation shall offer coverage that permits a reduction in the quantity of production of an agricultural commodity produced during a crop year, or any similar adjustment, that results from the agricultural

commodity not meeting the quality standards established in the policy.

(B) *ELECTION NOT TO RECEIVE COVERAGE.*—

(i) *IN GENERAL.*—A producer may elect not to receive quality adjustment coverage.

(ii) *PREMIUM REDUCTION.*—In the case of an election described in clause (i), the Corporation shall provide a reduction in the premium payable by the producer for a plan of insurance in an amount equal to the premium for the quality adjustment coverage, as determined by the Corporation.

(C) *REVIEW OF CRITERIA AND PROCEDURES.*—The Corporation shall—

(i) contract with a qualified person to analyze the quality loss adjustment procedures of the Corporation; and

(ii) based on the analysis, make adjustments in the quality loss adjustment procedures of the Corporation necessary to more accurately reflect local quality discounts that are applied to agricultural commodities insured under this title, taking into consideration the actuarial soundness of the adjustment and the prevention of fraud, waste, and abuse.

(7) *PREVENTED PLANTING.*—

(A) *ELECTION NOT TO RECEIVE COVERAGE.*—

(i) *IN GENERAL.*—A producer may elect not to receive coverage for prevented planting of an agricultural commodity.

(ii) *PREMIUM REDUCTION.*—In the case of an election described in clause (i), the Corporation shall provide a reduction in the premium payable by the producer for a plan of insurance in an amount equal to the premium for the prevented planting coverage, as determined by the Corporation.

(B) *EQUAL COVERAGE.*—For each agricultural commodity for which prevented planting coverage is available, the Corporation shall offer an equal percentage level of prevented planting coverage.

(C) *AREA CONDITIONS REQUIRED FOR PAYMENT.*—The Corporation shall limit prevented planting payments to producers in the area in which the farm is located that are generally affected by the conditions that prevent an agricultural commodity from being planted.

(D) *SUBSTITUTE COMMODITY.*—

(i) *AUTHORITY TO PLANT.*—Subject to clause (v), a producer that has prevented planting coverage and is eligible to receive an indemnity under the coverage may plant an agricultural commodity, other than the commodity covered by the prevented planting coverage, on the acreage originally prevented from being planted.

(ii) *NONAVAILABILITY OF INSURANCE.*—A substitute agricultural commodity planted under clause (i) for harvest in the same crop year shall not be eligible for coverage under a policy or plan of insurance under this

title or for noninsured crop disaster assistance under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333).

(iii) *RELATIONSHIP TO OTHER REQUIREMENTS.*—The producer of a substitute agricultural commodity under clause (ii) shall remain eligible for the benefits described in subsection (b)(7).

(iv) *EFFECT ON ACTUAL PRODUCTION HISTORY.*—If a producer plants a substitute agricultural commodity under clause (i) for a crop year, the Corporation shall assign the producer a yield, for that crop year for the commodity that was prevented from being planted, equal to 60 percent of the producer's actual production history for that commodity for purposes of determining the producer's actual production history for subsequent crop years.

(v) *EFFECT ON PREVENTED PLANTING PAYMENT.*—If a producer plants a substitute agricultural commodity under clause (i) before the latest planting date established by the Corporation for the agricultural commodity prevented from being planted, the Corporation shall not make a prevented planting payment with regard to the commodity prevented from being planted.

(E) *RELATIONSHIP TO OTHER LAW.*—This paragraph shall supersede subsection (h)(7) to the extent that this paragraph is inconsistent with subsection (h)(7).

(F) *FISCAL YEARS.*—This paragraph shall apply to each of fiscal years 2001 through 2004.

(8) *ADEQUATE COVERAGE FOR STATES.*—

(A) *DEFINITION OF ADEQUATELY SERVED.*—In this paragraph, the term 'adequately served' means having a participation rate that is at least 50 percent of the national average participation rate.

(B) *REVIEW.*—The Board shall review the plans of insurance that are offered by approved insurance providers under this title to determine if each State is adequately served by the plans of insurance.

(C) *REPORT.*—

(i) *IN GENERAL.*—Not later than 30 days after completion of the review under subparagraph (B), the Board shall submit to Congress a report on the results of the review.

(ii) *RECOMMENDATIONS.*—The report shall include recommendations to increase participation in States that are not adequately served by the plans of insurance.

(b) *CATASTROPHIC RISK PROTECTION.*

\* \* \* \* \*

(c) *GENERAL COVERAGE LEVELS.*—

\* \* \* \* \*

[(5) *PRICE LEVEL.*—The Corporation shall establish a price level for each commodity on which insurance is offered that—

[(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

[(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).]

(5) *EXPECTED MARKET PRICE.*—

(A) *IN GENERAL.*—*For the purposes of this title, the Corporation shall establish or approve the price level (referred to in this title as the ‘expected market price’) of each agricultural commodity for which insurance is offered.*

(B) *AMOUNT.*—*The expected market price of an agricultural commodity—*

*(i) except as otherwise provided in this subparagraph, shall be not less than the projected market price of the agricultural commodity, as determined by the Corporation;*

*(ii) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation;*

*(iii) in the case of revenue and other similar plans of insurance, shall be the actual market price of the agricultural commodity, as determined by the Corporation; or*

*(iv) in the case of cost of production or similar plans of insurance, shall be the projected cost of producing the agricultural commodity, as determined by the Corporation.*

\* \* \* \* \*

(d) *PREMIUMS.*—

\* \* \* \* \*

(2) *PREMIUM AMOUNTS.*—*The premium amounts for catastrophic risk protection under subsection (b) and additional coverage under subsection (c) shall be fixed as follows:*

\* \* \* \* \*

[(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

[(i) be sufficient to cover anticipated losses and a reasonable reserve; and

[(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.]

[(C) *In the case of additional coverage at greater than or equal to 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage for a plan of insurance that is not based on yield, but less than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage*

for a plan of insurance that is not based on yield, the amount of the premium shall—

(i) be sufficient to cover anticipated losses and a reasonable reserve; and

(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

(D) In the case of additional coverage equal to or greater than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage for a plan of insurance that is not based on yield, the amount of the premium shall—

(i) be sufficient to cover anticipated losses and a reasonable reserve; and

(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

\* \* \* \* \*

(e) PAYMENT OF PORTION OF PREMIUM BY CORPORATION.—

[(1) IN GENERAL.—For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) and the additional coverage provided under subsection (c), the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.]

(1) IN GENERAL.—

(A) MANDATORY PAYMENTS.—For the purpose of encouraging the broadest possible participation of producers in the crop insurance plans of insurance described in subsections (b) and (c), the Corporation shall pay a part of the premium in the amounts determined under this subsection.

(B) DISCRETIONARY PAYMENTS.—For the purpose of encouraging the broadest possible participation of producers, in the case of a plan of insurance approved by the Corporation under subsection (h), the Corporation may pay a part of the premium as determined under this subsection.

(2) AMOUNT OF PAYMENT.—

\* \* \* \* \*

[(B) In the case of coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equivalent to the amount of premium established for catastrophic risk protection coverage and the amount of operating and administrative expenses established under subsection (d)(2)(B).]

[(C) In the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an

equivalent coverage, on an individual or area basis, the amount shall be equivalent to an amount equal to the premium established for 50 percent loss in yield indemnified at 75 percent of the expected market price and the amount of operating and administrative expenses established under subsection (d)(2)(C).】

*(B) In the case of additional coverage less than or equal to 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage for a plan of insurance that is not based on yield, the amount shall be equal to the sum of—*

*(i) 60 percent of the amount of the premium established under subsection (d)(2)(B)(i); and*

*(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(B)(ii).*

*(C) In the case of additional coverage at 55 percent or 60 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage for a plan of insurance that is not based on yield, the amount shall be equal to the sum of—*

*(i) 45 percent of the amount of the premium established under subsection (d)(2)(B)(i); and*

*(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(B)(ii).*

*(D) In the case of additional coverage at 65 percent or 70 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage for a plan of insurance that is not based on yield, the amount shall be equal to the sum of—*

*(i) 50 percent of the amount of the premium established under subsection (d)(2)(C)(i); and*

*(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(C)(ii).*

*(E) In the case of additional coverage equal to or greater than 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or a comparable coverage for a plan of insurance that is not based on yield, the amount shall be equal to the sum of—*

*(i) 55 percent of the amount of the premium established for coverage at 75 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price under subsection (d)(2)(D)(i); and*

*(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(D)(ii).*

*(F) Subparagraphs (A) through (E) shall apply to each of fiscal years 2001 through 2004.*

\* \* \* \* \*

【(4) INDIVIDUAL AND AREA CROP INSURANCE COVERAGE.—The Corporation shall allow approved insurance providers to offer a plan of insurance to producers that combines both individual yield coverage and area yield coverage at a premium rate determined by the provider under the following conditions:

[(A) The individual yield coverage shall be equal to or greater than catastrophic risk protection as described in subsection (b).]

[(B) The combined policy shall include area yield coverage that is offered by the Corporation or similar area coverage, as determined by the Corporation.]

[(C) The Corporation shall provide reinsurance on the area yield portion of the combined policy at the request of the provider, except that the provider shall agree to pay to the producer any portion of the area yield and loss indemnity payment received from the Corporation or a commercial reinsurer that exceeds the individual indemnity payment made by the provider to the producer.]

[(D) The Corporation shall pay a part of the premium equivalent to—

[(i) the amount authorized under paragraph (2) (except provisions regarding operating and administrative expenses); and

[(ii) the amount of operating and administrative expenses authorized by the Corporation for the area yield coverage portion of the combined policy.]

[(E) The provider shall provide all underwriting services for the combined policy, including the determination of individual yield coverage premium rates, the terms and conditions of the policy, and the acceptance and classification of applicants into risk categories, subject to subparagraph (F).]

[(F) The Corporation shall approve the combined policy unless the Corporation determines that the policy is not actuarially sound or that the interests of producers are not adequately protected.]

(f) ELIGIBILITY.—

\* \* \* \* \*

(3) RECORDS AND REPORTING.—To obtain catastrophic risk protection under subsection (b) or additional coverage under subsection (c), a producer shall—

(A) [provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage and production of the crops for which the insurance is sought] *provide annually records acceptable to the Secretary regarding crop acreage, acreage yields, and production for each agricultural commodity insured under this title* or accept a yield determined by the Corporation; and

\* \* \* \* \*

(g) YIELD DETERMINATIONS.—

\* \* \* \* \*

(2) YIELD COVERAGE PLANS.—

\* \* \* \* \*

(B) ASSIGNED YIELD.—If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be [assigned a yield] *assigned*—

(i) a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements<sup>[1]</sup>; or

(ii) a yield determined by the Corporation, in the case of—

(I) a producer that has not had a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary;

(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; and

(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.

\* \* \* \* \*

(D) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between individual yield or area yield coverage [or combined coverage] (as provided in subsection (e)(4)), [if available,] on a commodity-by-commodity basis.

\* \* \* \* \*

(4) TRANSITIONAL ADJUSTMENT FOR DISASTERS.—

(A) DEFINITION OF A PRODUCER THAT HAS SUFFERED A MULTI YEAR DISASTER.—In this paragraph, the term ‘a producer that has suffered a multi year disaster’ means a producer (or a successor entity through which the actual production history of the producer can be traced) that has suffered a natural disaster during at least 3 of the immediately preceding 5 crop years that resulted in a cumulative reduction of at least 25 percent in the actual production history of the crop of an agricultural commodity.

(B) ELIMINATION OF CERTAIN YEARS OF PRODUCTION HISTORY.—Notwithstanding paragraph (2), effective beginning with the 2001 crop year, for the purpose of calculating the actual production history for a crop of an agricultural commodity, a producer that has suffered a multi year disaster with respect to the crop may exclude 1 year of production history for each 5 years included in the actual production history calculation of the crop for which the producer purchased crop insurance.

(C) CORPORATION’S SHARE OF CHANGED COSTS.—In the case of an exclusion under subparagraph (B), in addition to any other authority to pay any portion of premium, the Corporation shall pay—

(i) the portion of the premium that represents the increase in premium associated with the exclusion;

(ii) all additional indemnities associated with the exclusion; and

(iii) any amounts that result from the difference in the administrative and operating expenses owed to an approved insurance provider as the result of an exclu-

*sion in actual production history under this paragraph.*

*(D) INCREASE IN ACTUAL PRODUCTION HISTORY AFTER EXCLUSIONS.—In the case of a producer that has received an exclusion under subparagraph (B), the Corporation shall not limit the increase of the actual production history based on the producer's actual production of the crop of an agricultural commodity in succeeding crop years until the actual production history for the producer reaches the level for the crop year immediately preceding the first year of the multi year disaster.*

*(E) TERMINATION OF EXCLUSION AUTHORITY.—The authority to apply this paragraph to a producer shall terminate with respect to the first crop year in which crop insurance is available to the producer that adequately insures against natural disasters that occur in multiple crop years, as determined by the Corporation.*

*(F) REINSURANCE YEARS.—This paragraph shall apply to each of the 2001 through 2004 reinsurance years.*

**(h) SUBMISSION OF POLICIES AND MATERIALS TO BOARD.—**

**[(1) IN GENERAL.—**In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c), a person may prepare for submission or propose to the Board—

**[(A)** other crop insurance policies and provisions of policies; and

**[(B)** rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

**[(2) SUBMISSION OF POLICIES.—**A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this title, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board. In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e).

**[(3) REVIEW AND APPROVAL BY THE BOARD.—**A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

**[(4) GUIDELINES FOR SUBMISSION AND REVIEW.—**The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material

submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

【(A) A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5, United States Code, until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.

【(B) The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

【(C) The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval. An applicant that receives the notification may modify the application of the applicant. Any modification shall be considered an original application for purposes of this paragraph.

【(D) Specific guidelines shall prescribe the timing of submission of proposals under this subsection and timely consideration by the Board so that any approved proposal may be made available to all persons reinsured by the Corporation in a manner permitting the persons to participate, if the persons so desire, in offering such a proposal in the first crop year in which the proposal is approved by the Board for reinsurance, premium subsidy, or other support offered by this title.

【(5) REQUIRED PUBLICATION.—Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.】

(1) *IN GENERAL.*—*In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c), a person may propose to the Board—*

(A) *loss of yield or revenue insurance coverage on an individual, area, or a combination of individual and area basis, for 1 or more agricultural commodities;*

(B) *rates of premium for a proposed or existing policy;*  
*and*

(C) *underwriting systems for a proposed or existing policy.*

(2) *SUBMISSION OF PROPOSALS.*—

(A) *IN GENERAL.*—*Subject to subparagraph (B) and paragraph (3), a proposal submitted to the Board under this subsection may be prepared without regard to the limitations of this title, including limitations—*

(i) *concerning actuarial soundness;*

(ii) *concerning levels of coverage;*

(iii) *concerning rates of premium;*

(iv) *that the price level for coverage for each insured commodity must equal the expected market price for the commodity as established by the Board; and*

(v) that an approved insurance provider shall provide coverage under a policy throughout a State for all commodities if the approved insurance provider elects to provide any coverage in the State.

(B) *MAXIMUM ALLOWABLE SUBSIDY.*—The payment by the Corporation of a portion of the premium of the policy approved by the Board under this subsection may not exceed the amount that would otherwise be authorized under subsection (e).

(3) *STANDARDS.*—

(A) *IN GENERAL.*—The Board shall approve a proposal under this subsection for subsidy and reinsurance if the Board finds that the proposal adequately ensures that—

- (i) the interests of producers of commodities are adequately protected;
- (ii) premiums charged to producers are actuarially appropriate;
- (iii) the underwriting system included in the proposal is appropriate and adequate; and
- (iv) the proposal is reinsured under this title, is reinsured through private reinsurance, or is self-insured;

(B) *RATES OF PREMIUM.*—A proposed rate of premium (including the part of premium paid by the Corporation) shall be considered to be actuarially appropriate if the rate is sufficient to cover projected losses and expenses, reasonable reserve, and the amount of operating and administrative expenses determined under subsection (d)(2).

(C) *PROPOSED UNDERWRITING PLANS.*—A proposed underwriting plan—

- (i) may be on an area or individual farm basis; and
- (ii) shall, at a minimum, specify factors such as yield history for the farm or region, soils and resource quality for the farm, and farm production practices.

(D) *REINSURANCE.*—

(i) *FEDERAL REINSURANCE.*—The Corporation shall, to the maximum extent practicable, make reinsurance available to an approved insurance provider under this subsection.

(ii) *PRIVATE OR FEDERAL REINSURANCE.*—An approved insurance provider may—

- (I) obtain private reinsurance for the proposal;
- (II) obtain reinsurance for the proposal under this title; or
- (III) self-insure the proposal.

(E) *ACTUARIALLY APPROPRIATE.*—The Board shall prescribe standards for whether premium rates are actuarially appropriate considering the risk inherent in the proposed product.

(4) *REVIEW AND APPROVAL BY BOARD.*—With respect to any policy or other material submitted to the Board after October 1, 2000, under this subsection, the following guidelines shall apply:

(A) *IN GENERAL.*—The policy or other material shall be reviewed by the Board in accordance with subparagraphs (C) and (D).

(B) *MULTIPLE INSURANCE AGREEMENTS.*—The Corporation may enter into more than 1 reinsurance agreement simultaneously with the approved insurance provider to facilitate the offering of the new policy.

(C) *PROCEDURES FOR SUBMISSION AND REVIEW.*—The Corporation shall promulgate regulations that establish procedures for the submission and review by the Board of proposals submitted to the Board under this subsection, including—

(i) the standards applicable to a proposal under paragraph (3) (including documentation required to establish that a proposal satisfies the standards);

(ii) procedures concerning the time limitations provided under this paragraph; and

(iii) procedures that provide an applicant the opportunity to present the proposal to the Board in person.

(D) *REVIEW BY THE BOARD.*—

(i) *PERIOD FOR APPROVAL.*—Notwithstanding any other provision of law, a proposal submitted to the Board shall be considered to be approved unless the Board disapproves the proposal by the date that is 60 business days after the later of—

(I) the date of submission of the completed proposal to the Board; or

(II) the date on which the applicant provides to the Board notice of intent to modify the proposal under clause (ii)(IV).

(ii) *NOTICE OF DISAPPROVAL.*—

(I) *IN GENERAL.*—Not later than 15 days before the date on which the Board intends to announce disapproval of a proposal, the Board shall provide the applicant, by registered mail, with notice of intent to disapprove the proposal.

(II) *RIGHT TO MODIFY.*—An applicant that is notified under subclause (I) may modify the proposal.

(III) *ORIGINAL APPLICATION.*—For the purposes of this clause, any modified proposal shall be considered to be an original proposal.

(IV) *NOTICE OF INTENT TO MODIFY.*—Not later than 5 business days after receipt of a notice under subclause (I), an applicant that intends to modify the proposal shall so notify the Board.

(E) *TIMING.*—In establishing procedures under this subsection, the Board shall prescribe a reasonable deadline for the submission of proposals that approved insurance providers expect to market during the reinsurance year.

(F) *CONFIDENTIALITY.*—

(i) *IN GENERAL.*—A proposal submitted to the Board under this subsection (including any information generated from the proposal) shall be considered to be confidential commercial or financial information for the

purposes of section 552(b)(4) of title 5, United States Code.

(ii) *STANDARD OF CONFIDENTIALITY.*—Except as provided in clauses (iii) and (iv), if information concerning a proposal could be withheld by the Secretary under the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information under section 552(b)(4) of title 5, United States Code, the information shall not be released to the public.

(iii) *EXCEPTION FOR PURCHASERS OF PLANS OF INSURANCE.*—Clause (ii) shall not apply in the case of an approved insurance provider that elects to pay a fee to sell a plan of insurance developed by another provider under paragraph (5).

(iv) *APPROVED PROPOSALS.*—In lieu of publication in the Federal Register, a general summary of the content of the proposal shall be made available to other approved insurance providers at the time at which the proposal is approved by the Board, consisting of a description of—

(I) the identity of the approved insurance provider;

(II) the coverage provided; and

(III) the area to be covered by the approved proposal.

(5) *FEES FOR PLANS OF INSURANCE.*—

(A) *FEES FOR EXISTING PLANS OF INSURANCE.*—

(i) *IN GENERAL.*—Effective beginning with the 2001 reinsurance year, if an approved insurance provider elects to sell a plan of insurance that was developed by another approved insurance provider and the plan of insurance was approved by the Board before January 1, 2000, the approved insurance provider that developed the plan of insurance shall have the right to receive a fee from the approved insurance provider that elects to sell the plan of insurance.

(ii) *AMOUNT.*—The amount of the fee that is payable by an approved insurance provider for a plan of insurance under clause (i) shall be—

(I) for each of the first 5 crop years that the plan is sold, \$2.00 for each policy under the plan that is sold by the approved insurance provider;

(II) for each of the next 3 crop years that the plan is sold, \$1.00 for each policy under the plan that is sold by the approved insurance provider; and

(III) for each crop year thereafter that the plan is sold, 50 cents for each policy under the plan that is sold by the approved insurance provider.

(B) *FEES FOR NEW PLANS OF INSURANCE.*—

(i) *IN GENERAL.*—Effective beginning with the 2001 reinsurance year, if an approved insurance provider elects to sell a plan of insurance that was developed by

another approved insurance provider, the plan of insurance was approved by the Board under this subsection on or after January 1, 2000, and the plan of insurance was not available at the time at which the plan of insurance was approved by the Board, the approved insurance provider that developed the plan of insurance shall have the right to receive a fee from the approved insurance provider that elects to sell the plan of insurance.

(ii) AMOUNT.—

(I) IN GENERAL.—Subject to subclause (II), the amount of the fee that is payable by an approved insurance provider for a plan of insurance under clause (i) shall be an amount that is—

(aa) determined by the approved insurance provider that developed the plan; and

(bb) approved by the Board.

(II) APPROVAL.—The Board shall not approve the amount of a fee under clause (i) if the amount of the fee unnecessarily inhibits the use of the plan of insurance, as determined by the Board.

(C) PAYMENTS.—The Corporation shall annually—

(i) collect from an approved insurance provider the amount of any fees that are payable by the approved insurance provider under subparagraphs (A) and (B); and

(ii) credit any fees that are payable to an approved insurance provider under subparagraphs (A) and (B).

(D) EXCEPTIONS.—In the case of a policy developed by an approved insurance provider that does not conduct business in a State—

(i) the approved policy may be marketed in the State by another approved insurance provider if the approved insurance provider marketing the policy pays any fee for marketing the policy imposed by the developing provider; and

(ii) the developing provider shall not deny payment of a fee by another provider to maintain full marketing rights of the approved policy.

[(6) PILOT COST OF PRODUCTION RISK PROTECTION PLAN.—

[(A) IN GENERAL.—The Corporation shall offer, to the extent practicable, a cost of production risk protection plan of insurance that indemnifies producers (including new producers) for insurable losses as provided in this paragraph.

[(B) PILOT BASIS.—The cost of production risk protection plan shall—

[(i) be established as a pilot project for each of the 1996 and 1997 crop years; and

[(ii) be carried out in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the plan.

[(C) INSURABLE LOSS.—An insurable loss shall be incurred by a producer if the gross income of the producer (as determined by the Corporation) is less than an amount determined by the Corporation, as a result of a reduction in yield or price resulting from an insured cause.

[(D) DEFINITION OF NEW PRODUCER.—As used in this paragraph, the term “new producer” means a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary.]

[(7)] (6) ADDITIONAL PREVENTED PLANTING POLICY COVERAGE.—

(A) IN GENERAL.—Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

(B) APPROVED INSURANCE PROVIDERS.—Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

(C) TIMING OF LOSS.—A crop loss shall be covered by the additional prevented planting coverage if—

(i) crop insurance policies were obtained for—

(I) the crop year the loss was experienced; and

(II) the crop year immediately preceding the year of the prevented planting loss; and

(ii) the cause of the loss occurred—

(I) after the sales closing date for the crop in the crop year immediately preceding the loss; and

(II) before the sales closing date for the crop in the year in which the loss is experienced.

[(8) PILOT PROGRAM OF ASSIGNED YIELDS FOR NEW PRODUCERS.—

[(A) PROGRAM REQUIRED.—For each of the 1995 and 1996 crop years, the Corporation shall carry out a pilot program to assign to eligible new producers higher assigned yields than would otherwise be assigned to the producers under subsection (g). The Corporation shall include in the pilot program 30 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among new producers for increased assigned yields.

[(B) INCREASED ASSIGNED YIELDS.—In the case of an eligible new producer participating in the pilot program, the Corporation shall assign to the new producer a yield that is equal to not less than 110 percent of the transitional yield otherwise established by the Corporation.

[(C) ELIGIBLE NEW PRODUCER.—The Secretary shall establish a definition of new producer for purposes of determining eligibility to participate in the pilot program.]

[(9)] (7) REVENUE INSURANCE PILOT PROGRAM.—

(A) IN GENERAL.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997 through 2001, under which a producer of

wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

(B) ADMINISTRATION.—Revenue insurance under this paragraph shall—

- (i) be offered through reinsurance arrangements with private insurance companies;
- (ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;
- (iii) be actuarially sound; and
- (iv) require the payment of premiums and administrative fees by an insured producer.

[(10) TIME LIMITS FOR RESPONSE TO SUBMISSION OF NEW POLICIES.—

[(A) IN GENERAL.—The Board shall establish a reasonable time period within which the Board shall approve or disapprove a proposal from a person regarding a new policy submitted in accordance with this subsection.

[(B) EFFECT OF FAILURE TO MEET TIME LIMITS.—Except as provided in subparagraph (C), if the Board fails to provide a response to a proposal described in subparagraph (A) in accordance with subparagraph (A), the new policy shall be deemed to be approved by the Board for purposes of this subsection for the initial reinsurance year designated for the new policy in the request.

[(C) EXCEPTIONS.—Subparagraph (B) shall not apply to a proposal submitted under this subsection if the Board and the person submitting the request agree to an extension of the time period.】

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[(m) RESEARCH.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique special risks related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board.

[(2) EXCEPTION.—No action may be undertaken with respect to a risk under paragraph (1) if insurance protection against the risk is generally available from private companies.

[(3) EVALUATION.—After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.】

[(n)] (m) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—

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(3) *LIMITATION ON DOUBLE INSURANCE.*—*The Corporation may offer plans of insurance or reinsurance for only 1 agricultural commodity produced on specific acreage during a crop year, unless—*

*(A) there is an established practice of double-cropping in an area, as determined by the Corporation;*

*(B) the additional plan of insurance is offered with respect to an agricultural commodity that is customarily double-cropped in the area; and*

*(C) the producer has a history of double cropping or the specific acreage has historically been double-cropped.*

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**[SEC. 515. ADVISORY COMMITTEE FOR FEDERAL CROP INSURANCE.]**

[(a) ESTABLISHMENT.—The Secretary may establish within the Department an advisory committee to be known as the “Advisory Committee for Federal Crop Insurance”.

[(b) PRIMARY RESPONSIBILITY.—The primary responsibility of the Advisory Committee shall be to advise the Secretary on the implementation of this title and on other issues related to crop insurance, as determined by the Manager of the Corporation.

[(c) MEMBERSHIP.—The Advisory Committee shall be composed of the Manager of the Corporation, the Secretary (or a designee of the Secretary), and not fewer than 12 members representing organizations and agencies involved in the provision of crop insurance under this title. Not fewer than 3 of the members of the Advisory Committee shall be representatives of the specialty crops industry. The organizations or agencies represented by members on the Advisory Committee may include insurance companies, insurance agents, farm producer organizations, experts on agronomic practices, and banking and lending institutions.

[(d) ADMINISTRATIVE PROVISIONS.—

[(1) TERMS.—Members of the Advisory Committee (other than the Manager of the Corporation and the Secretary) shall be appointed by the Secretary for a term of up to 2 years from nominations made by the organizations and agencies specified in subsection (c). The terms of the members (other than the Manager of the Corporation and the Secretary) shall be staggered.

[(2) CHAIRPERSON.—The Advisory Committee shall be chaired by the Manager of the Corporation.

[(3) MEETINGS.—The Advisory Committee shall meet at least annually. The meetings of the Advisory Committee shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Advisory Committee shall be kept and made available to the public on request.

[(e) REPORTS.—Not later than June 30 of each year, the Advisory Committee shall submit to the Secretary a report specifying the conclusions and recommendations of the Advisory Committee regarding—

[(1) the progress toward implementation of this title;

[(2) the actuarial soundness of the Federal crop insurance program;

[(3) the rate of producer participation in both catastrophic risk protection under section 508(b) and additional coverage under section 508(c); and

[(4) the progress toward improved crop insurance coverage for new and specialty crops.

[(f) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 1998.]

**SEC. 515. FEDERAL CROP INSURANCE IMPROVEMENT COMMISSION.**

(a) *DEFINITIONS.*—*In this section:*

(1) *COMMISSION.*—*The term “Commission” means the Federal Crop Insurance Improvement Commission established by subsection (b).*

(2) *SPECIALTY CROP.*—*The term “specialty crop” means an agricultural commodity other than a contract commodity (as defined in section 102 of the Agricultural Marketing Transition Act (7 U.S.C. 7202)).*

(b) *ESTABLISHMENT OF COMMISSION.*—*There is established a Commission to be known as the “Federal Crop Insurance Improvement Commission”.*

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—*The Commission shall be composed of the following 9 members:*

(A) *The Under Secretary for Farm and Foreign Agricultural Services of the Department.*

(B) *The manager of the Corporation.*

(C) *The Chief Economist of the Department or a person appointed by the Chief Economist.*

(D) *An employee of the Office of Management and Budget, appointed by the Director of the Office of Management and Budget.*

(E) *A representative of the National Association of Insurance Commissioners, experienced in insurance regulation, appointed by the National Association of Insurance Commissioners.*

(F) *Representatives of 3 approved insurance providers (the 3 approved insurance providers being elected by majority vote of all approved insurance providers), appointed by the 3 approved insurance providers.*

(G) *A representative of a private nonprofit organization designated by the manager of the Corporation—*

(i) *that is organized and has operated for at least 5 consecutive years as an insurance advisory and statistical agent organization for crop insurance written in the United States;*

(ii) *that is licensed and approved as a statistical agent by substantially all States in which federally re-insured crop insurance is sold; and*

(iii) *the activities of which have included—*

(I) *the accumulation and analysis of loss expenses and other crop insurance statistics;*

(II) *the development of forms for crop insurance policies; and*

(III) the development of procedures for loss adjustment;

(2) *TIME OF APPOINTMENT.*—The members of the Commission shall be appointed not later than 60 days after the date of enactment of the Risk Management for the 21st Century Act.

(3) *TERM.*—A member of the Commission shall serve for the life of the Commission.

(d) *DUTIES.*—The Commission shall study the following subjects:

(1) The extent to which approved insurance providers should bear the risk of loss for federally subsidized crop insurance.

(2) Whether the Corporation should—

(A) continue to provide financial assistance for the benefit of agricultural producers by reinsuring coverage written by approved insurance providers; or

(B) provide assistance in another form, such as by acting as an excess insurer.

(3) The extent to which development of new insurance products should be undertaken by the private sector, including development of insurance products for specialty crops.

(4) The use by the Corporation of private sector resources under section 507(c).

(5) The progress of the Corporation in reducing administrative and operating costs of approved insurance providers under section 508(k)(5).

(6) The identification of methods, and of organizational, statutory, and structural changes, to enhance and improve—

(A) delivery of reasonably priced crop insurance products to agricultural producers;

(B) loss adjustment procedures;

(C) good farming practices;

(D) the establishment of premiums; and

(E) compliance with this title (including regulations issued under this title, the terms and conditions of insurance coverage, and adjustments of losses).

(e) *COMMISSION OPERATIONS.*—

(1) *CHAIRPERSON; VOTING.*—The Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture shall—

(A) serve as Chairperson of the Commission; and

(B) vote in the case of a tie.

(2) *MEETINGS.*—

(A) *IN GENERAL.*—The Commission shall meet regularly, but not less than 6 times per year.

(B) *TIME.*—A meeting may be called—

(i) at any time, by the Chairperson; or

(ii) notwithstanding section 10(f) of the Federal Advisory Committee Act (5 U.S.C. App.), by any 3 members of the Commission, if those members give notice to the Commission not later than 10 days before the date of the meeting.

(3) *DISCLOSURE.*—

(A) *IN GENERAL.*—To the extent that the records, papers, or other documents received, prepared, or maintained by the Commission are subject to public disclosure, the docu-

ments shall be available for public inspection and copying at the Office of Risk Management.

(B) *EXCEPTIONS.*—Section 10(a) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to—

- (i) a meeting of the Commission; or
- (ii) any disclosure of records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other similar documents containing such information as is not required under section 10(b) of that Act.

(C) *APPLICABILITY.*—The exceptions described in subparagraph (B) shall not exempt the Commission from any requirement of—

- (i) section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) (to the extent of giving public notice of its meetings);
- (ii) section 10(a)(3) of that Act (to the extent of allowing interested persons to appear and to present or file statements); or
- (iii) section 10(c) of that Act.

(4) *COMPENSATION.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), a member of the Commission who is employed by the Department or by another agency, department, or office of the Federal Government shall receive no additional compensation for the services of the employee as a member of the Commission.

(B) *EXPENSES.*—A member of the Commission may be allowed necessary traveling and subsistence expenses when engaged in business of the Commission.

(C) *NON-FEDERAL MEMBERS.*—A member of the Commission who is not employed by the Federal Government, when on the business of the Commission away from the home or regular place of business of the member, shall be paid—

- (i) compensation for the services of the member at the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and
- (ii) necessary traveling and subsistence expenses (or a per diem allowance in lieu of subsistence expenses) as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Federal Government service.

(5) *MISCELLANEOUS ACCOMMODATIONS.*—

(A) *OFFICE SPACE.*—The Under Secretary for Farm and Foreign Agricultural Services (or, on delegation by the Under Secretary for Farm and Foreign Agricultural Services, the manager of the Corporation) shall arrange for the Commission to occupy offices and meeting rooms at the offices of the Department in the District of Columbia, in accordance with section 5(b)(5) of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) *SUPPORT SERVICES.*—The Department shall provide support services for the Commission in accordance with sec-

tion 12 of the Federal Advisory Committee Act (5 U.S.C. App.).

(6) *STAFF.*—

(A) *IN GENERAL.*—The Commission may employ staff and retain the services of professionals such as accountants, actuaries, attorneys, economists, and management consultants to assist the Commission in carrying out its duties under this section.

(B) *COMPENSATION.*—In accordance with subparagraph (C), the Commission—

(i) may compensate staff hired and professionals retained under subparagraph (A) on such terms and in such amounts as are customary and reasonable within the private sector; and

(ii) shall not be limited in any respect to terms, amounts, and limitations related to compensation that would apply if the Commission were retaining contractors to or for a governmental entity.

(C) *LIMITATION ON COMPENSATION.*—The aggregate of all staff and professional compensation shall not exceed \$4,000,000 per year.

(D) *REIMBURSEMENT.*—A member of the Commission may be reimbursed for the costs of professional services obtained by the member to assist in the work of the member for the Commission, except that—

(i) no reimbursement (other than travel and subsistence expenses) shall be allowed with respect to any services rendered by any person otherwise employed by the Federal Government;

(ii) a majority of the Commission shall approve in advance the retention by a member of professional services, including the terms of compensation of the professional;

(iii) the services to be reimbursed shall relate exclusively to the work of the Commission;

(iv) the work product of any professional hired under this paragraph shall be available to the Commission and all professionals engaged by the Commission;

(v) no reimbursement may be made without approval by a majority of the Commission; and

(vi) the aggregate amount of all such services for all members of the Commission under this subparagraph shall not exceed \$1,000,000 for each fiscal year.

(7) *SOURCE OF FUNDS.*—All expenses of the Commission, including payments made under paragraphs (4) and (6), shall be paid from the insurance fund established under section 516.

(f) *FINAL REPORT.*—

(1) *IN GENERAL.*—Not later than 2 years after the date of enactment of the Risk Management for the 21st Century Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a final report on the study under subsection (d).

(2) *COPIES.*—The Commission shall provide copies of the final report to—

- (A) the Secretary;
- (B) the Board; and
- (C) the Comptroller General of the United States.

(3) *INTERIM REPORTS.*—To expedite completion of the work of the Commission, the Commission may submit 1 or more interim reports or reports on 1 or more of the subjects to be studied.

(g) *TERMINATION.*—The Commission shall terminate on the earlier of—

- (1) 60 days after the date on which the Commission submits the final report under subsection (f); or
- (2) September 30, 2004.

#### **SEC. 516. FUNDING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **[Discretionary expenses.**—There are authorized to be appropriated for fiscal year 1999 and each subsequent fiscal year such sums as are necessary to cover the salaries and expenses of the Corporation.] *There are authorized to be appropriated for fiscal year 1999 and each subsequent fiscal year such sums as are necessary to cover—*

- (A) *the salaries and expenses of the Corporation; and*
- (B) *the expenses of approved insurance providers incurred in carrying out section 522(c).*

(2) **MANDATORY EXPENSES.**—There are authorized to be appropriated such sums as are necessary to cover for each of the 1999 and subsequent reinsurance years—

- (A) the administrative and operating expenses of the Corporation for the sales commissions of agents; **[and]**
- (B) premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage**[.];**
- (C) *risk management payments authorized under section 522(c) in an amount not to exceed \$500,000,000 for the period of fiscal years 2002 through 2004, of which not more than \$200,000,000 may be expended for any 1 fiscal year; and*
- (D) *all necessary amounts to fund the operations of the Commission authorized under section 515.*

(b) **PAYMENT OF CORPORATION EXPENSES FROM INSURANCE FUND.**—

(1) **EXPENSES GENERALLY.**—

\* \* \* \* \*

(B) administrative and operating expenses of the Corporation necessary to pay the sales commissions of agents; **[and]**

(C) all administrative and operating expense reimbursements due under a reinsurance agreement with an approved insurance provider**[.];**

(D) *the salaries and expenses of the Executive Director and staff appointed under section 505(a)(6) for fiscal year 2001, but not to exceed \$500,000 for the fiscal year; and*

(E) payment of fees in accordance with section 508(h)(5)(C).

(2) RESEARCH AND DEVELOPMENT EXPENSES.—

(A) IN GENERAL.—For each of the 1999 and subsequent reinsurance years, the Corporation may pay from the insurance fund established under subsection (c) research and development expenses of the Corporation, but not to [exceed \$3,500,000 for each fiscal year] exceed—

(i) in the case of each of fiscal years 2001 and 2002, \$4,500,000;

(ii) in the case of each of fiscal years 2003 and 2004, \$3,750,000; and

(iii) in the case of each subsequent fiscal year, \$3,500,000.

\* \* \* \* \*

(3) FUNDS FOR COMMISSION.—For each of fiscal years 2001 through 2004, the Corporation shall pay from the insurance fund established under subsection (c) such sums as are necessary to fund the operation of the Commission authorized under section 515.

(c) INSURANCE FUND.—

(1) IN GENERAL.—[There is established an insurance fund, for the deposit of premium income and amounts made available under subsection (a)(2), to be available without fiscal year limitation.] *There is established the insurance fund, which shall include (to remain available without fiscal year limitation)—*

(A) premium income and fees;

(B) amounts made available under subsection (a)(2); and

(C) civil fines collected under section 506(n)(3)(A).

\* \* \* \* \*

**SEC. 518. AGRICULTURAL COMMODITY.**

“Agricultural commodity”, as used in this title, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding livestock and stored grain, determined by the Board under [subsection (a) or (m) of section 508 of this title] *section 508(a), 522, or 523, or any one or more of such commodities, as the context may indicate.*

\* \* \* \* \*

**SEC. 522. RESEARCH AND PILOT PROGRAMS.**

(a) GENERAL PROVISIONS.—

(1) IN GENERAL.—*Except as otherwise provided in this subsection, the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and ag-*

riculture-related risks and losses based on proposals developed by the Corporation or by an approved insurance provider to evaluate whether the proposal or new risk management tool is suitable for the marketplace and addresses the needs of producers of agricultural commodities.

(2) *PRIVATE COVERAGE.*—Under this section, the Corporation shall not conduct any activity that provides insurance protection against a risk if insurance protection against the risk is generally available from private companies.

(3) *COVERED ACTIVITIES.*—The activities described in paragraph (1) include insurance on losses involving—

(A) reduced forage on rangeland caused by drought or insect infestation;

(B) livestock poisoning and disease;

(C) destruction of bees due to the use of pesticides;

(D) unique special risks related to fruits, nuts, vegetables, and specialty crops in general, aquacultural species, and forest industry needs (including appreciation);

(E) loss of timber due to drought, flood, fire, or other natural disaster;

(F) other agricultural products as determined by the Board; and

(G) after October 1, 2000, insurance coverage for livestock.

(4) *SCOPE OF PILOT PROGRAMS.*—The Corporation may—

(A) offer a pilot program authorized under this title on a regional, State, or national basis after considering the interests of affected producers and the interests of, and risks to, the Corporation;

(B) operate the pilot program, including any modifications of the pilot program, for a period of up to 4 years;

(C) extend the time period for the pilot program for additional periods, as determined appropriate by the Corporation; and

(D) provide pilot programs that would allow producers—

(i) to receive premium discounts for using whole farm units or single crop units of insurance; and

(ii) to cross State and county boundaries to form insurable units.

(5) *EVALUATION.*—After the completion of any pilot program under this section, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.

(6) *FUNDING.*—The amount of funds used to carry out research and pilot programs that are established after the date of enactment of this section (other than subsection (b)(2)) shall not exceed—

(A) in the case of fiscal year 2001, \$20,000,000;

(B) in the case of fiscal year 2002, \$40,000,000;

(C) in the case of fiscal year 2003, \$60,000,000; and

(D) in the case of fiscal year 2004, \$80,000,000.

(7) FISCAL YEARS.—Paragraphs (3)(E), (3)(G), (4), and (6) shall apply to each of fiscal years 2001 through 2004.

(8) RELATION TO OTHER LAWS.—

(A) IN GENERAL.—The terms and conditions of any policy or plan of insurance offered under this section that is reinsured by the Corporation shall not—

(i) be subject to the jurisdiction of the Commodity Futures Trading Commission or the Securities and Exchange Commission; or

(ii) be considered to be accounts, agreements (including any transaction that is of the character of, or is commonly known to the trade as, an “option”, “privilege”, “indemnity”, “bid”, “offer”, “put”, “call”, “advance guaranty”, or “decline guaranty”), or transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market for the purposes of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(B) EFFECT ON CFTC AND COMMODITY EXCHANGE ACT.—Nothing in this paragraph affects the jurisdiction of the Commodity Futures Trading Commission or the applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.) to any transaction conducted on a contract market under that Act by an approved insurance provider to offset the approved insurance provider’s risk under a plan or policy of insurance under this section.

(b) RESEARCH AND DEVELOPMENT CONTRACTING AUTHORITY.—

(1) IN GENERAL.—Subject to section 523(a), to obtain the best research and analysis concerning any significant issue pertaining to crop insurance, including outreach and education, pilot programs, or the development of a new plan of insurance, the Corporation may use only the authority provided by this section and funds made available under section 516(b)(2)(A) to—

(A) contract on a competitive basis with qualified persons;

(B) reimburse research costs associated with product development; and

(C) reimburse costs associated with the reassessment and modification of plans of insurance.

(2) ALTERNATIVE RATING METHODOLOGIES.—

(A) IN GENERAL.—The Corporation shall enter into contracts with qualified persons to study and develop alternative methodologies for rating plans of insurance for catastrophic risk protection and higher levels of additional coverage under subsections (b) and (c), respectively, of section 508, and rates for the plans of insurance, that take into account—

(i) producers that elect not to participate in the Federal crop insurance program; and

(ii) producers that elect to obtain only catastrophic risk protection.

(B) *PRIORITY.*—The studies conducted under this paragraph shall provide priority to agricultural commodities with—

- (i) the largest average acreage nationwide; and
- (ii) the lowest percentage of producers that purchase additional coverage.

(C) *FUNDING.*—

(i) *IN GENERAL.*—The Corporation shall fund the studies conducted under this paragraph from funds in the insurance fund available under section 516(b)(2)(A).

(ii) *AMOUNT.*—There are authorized for the studies conducted under this paragraph—

(I) in the case of each of fiscal years 2001 and 2002, \$1,000,000; and

(II) in the case of each of fiscal years 2003 and 2004, \$250,000.

(D) *FISCAL YEARS.*—This paragraph shall apply to each of fiscal years 2001 through 2004.

(3) *RESEARCH AND DEVELOPMENT PRIORITIES.*—The Corporation shall establish, as 1 of the highest research and development priorities of the Corporation, the development of a pasture, range, and forage program to promote land stewardship.

(4) *STUDY OF MULTI YEAR COVERAGE.*—

(A) *IN GENERAL.*—The Corporation shall contract with a qualified person to conduct a study to determine whether offering plans of insurance that provide coverage for multiple years would reduce fraud and abuse by persons that participate in the Federal crop insurance program.

(B) *REPORT.*—Not later than 1 year after the date of enactment of this section, the Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subparagraph (A).

(c) *CHOICE OF RISK MANAGEMENT OPTIONS.*—

(1) *DEFINITIONS.*—In this subsection:

(A) *Agricultural commodity.*—The term “agricultural commodity” means each agricultural commodity specified in section 518—

(i) for which catastrophic risk protection or additional coverage is available under this title, other than solely this section; and

(ii) that is selected by the Secretary in a manner that—

(I) encourages the maximum number of participants in the program under this subsection;

(II) provides a mixture of program, specialty, and regional crops; and

(III) gives consideration to agricultural commodities with low crop insurance participation rates.

(B) *APPLICABLE CROP.*—The term “applicable crop” means each of the 2002 through 2004 crops of an agricultural commodity produced by a producer.

(C) *APPLICABLE YEAR.*—The term “applicable year” means the year in which—

- (i) the applicable crop is produced on the farm of a producer; and
- (ii) the producer elects to receive a risk management payment or crop insurance premium subsidy under this subsection.

(D) *REGULATED EXCHANGE.*—The term “regulated exchange” means a board of trade (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) that is designated as a contract market under section 2(a)(1)(B) of that Act (7 U.S.C. 2a).

(2) *RISK MANAGEMENT PAYMENTS.*—

(A) *OFFER.*—The Corporation shall offer either to make either risk management payments or to provide crop insurance premium subsidies for each of the 2002 through 2004 crops of an agricultural commodity in accordance with subparagraph (B).

(B) *TERMS.*—Not later than the sales closing date for obtaining coverage for an agricultural commodity for each applicable year, an eligible producer may elect to receive, with respect to the agricultural commodity—

- (i) a risk management payment under this subsection; or
- (ii) a crop insurance premium subsidy, including a catastrophic risk protection subsidy, under this subsection.

(3) *RISK MANAGEMENT PAYMENT.*—

(A) *IN GENERAL.*—In the case of a producer that elects to receive a risk management payment for an applicable crop of an agricultural commodity under this subsection, the Corporation shall make a risk management payment to the producer that covers the agricultural commodity produced by the producer for the applicable crop.

(B) *BASIS FOR PAYMENT.*—The amount of a risk management payment shall be determined in accordance with paragraph (5).

(4) *QUALIFYING RISK MANAGEMENT PRACTICES.*—To be eligible for a risk management payment under this subsection for an applicable crop of an agricultural commodity, a producer shall obtain or use for the applicable crop a qualifying risk management practice from at least 2 of the following categories:

(A) *CROP INSURANCE CATEGORY.*—A producer may purchase coverage for an agricultural commodity under a private plan of insurance or a Federal plan of insurance that is not subsidized.

(B) *MARKETING RISK CATEGORY.*—

- (i) *FUTURE OR OPTION.*—A producer may enter into a future or option for an agricultural commodity produced on the farm of the producer for the applicable crop on a regulated exchange that is (as determined by the Corporation)—

(I)(aa) in the case of a future, at least 1 regulated futures contract (as defined in section 1256(g) of the Internal Revenue Code of 1986); and  
 (bb) in the case of an option, at least 1 listed option (as defined in section 1256(g) of that Code); and

(II) a hedging transaction (as defined in section 1256(e)(2) of that Code) involving an agricultural commodity that is used to reduce production, price, or revenue risk.

(ii) **AGRICULTURAL TRADE OPTION.**—A producer may purchase, on other than a regulated exchange, an agricultural trade option for the applicable crop of an agricultural commodity produced on the farm of the producer that (as determined by the Corporation)—

(I) provides coverage for at least 10 percent of the estimated monetary value of the agricultural commodity;

(II) is an equity option (as defined in section 1256(g) of the Internal Revenue Code of 1986); and

(III) is a hedging transaction (as defined in section 1256(e)(2) of that Code) involving an agricultural commodity that is used to reduce production, price, or revenue risk.

(iii) **CASH FORWARD OR OTHER MARKETING CONTRACT.**—A producer may enter into a cash forward or other type of marketing contract for at least 20 percent of the monetary value of an agricultural commodity produced on the farm of the producer for the applicable crop, as determined by the Secretary.

(iv) **MARKETING THROUGH COOPERATIVES.**—A producer may market at least 25 percent of an agricultural commodity produced by the producer through a cooperative that is owned by agricultural producers.

(C) **FINANCIAL RISK CATEGORY.**—

(i) **TRUST.**—A producer may make a deposit of an amount equal to at least 10 percent of the payments of the producer for the applicable year under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) into a trust authorized by statute for eligible farming businesses that may be established to accept tax deductible contributions.

(ii) **AGRICULTURAL MARKETING AND RISK MANAGEMENT EDUCATION.**—A producer may attend and complete in the applicable year an agricultural marketing or risk management class or seminar approved by the Corporation.

(iii) **FINANCIAL RISK REDUCTION.**—A producer may reduce farm financial risk by reducing debt in an amount that reduces leverage or by increasing liquidity, as determined by the Secretary.

(iv) **DIVERSIFICATION.**—A producer may address production or financial risk by—

(I) diversifying production on the farm of the producer by producing at least 1 additional commodity on the farm;

(II) significantly increasing farm enterprise diversification in the applicable year, as determined by the Secretary;

(III) maintaining an integrated farming system with a substantial degree of diversification, as determined by the Secretary; or

(IV) implementing a transition to organic farming.

(D) FARM RESOURCES RISK CATEGORY.—

(i) CONSERVATION PRACTICES.—A producer may implement new or existing conservation practices consisting of—

(I) nutrient management;

(II) integrated pest management;

(III) conservation tillage;

(IV) conservation buffers; or

(V) other conservation practices that are appropriate for the farm, as determined by the Secretary.

(ii) AGRICULTURAL CONSERVATION MANAGEMENT PLAN.—A producer may develop a plan to mitigate financial risk associated with resource conservation through practices consisting of—

(I) nutrient management;

(II) integrated pest management;

(III) soil erosion control;

(IV) conservation buffers;

(V) soil residue management;

(VI) water quantity or quality management; or

(VII) other conservation practices that are appropriate for the farm, as determined by the Secretary.

(iii) AGRICULTURAL RESOURCE IMPROVEMENTS.—A producer may invest in the improvement or development of 1 or more of the following capital land improvements on the farm of the producer to reduce production risk:

(I) Irrigation management.

(II) Watershed management structures.

(III) Planting trees for windbreaks or water quality.

(IV) Soil quality management options.

(V) Animal waste management structures.

(VI) Other land improvements, as determined by the Secretary.

(E) OTHER CATEGORY.—A producer may engage in any other risk management practice approved by the Secretary.

(5) DETERMINATION OF RISK MANAGEMENT PAYMENT.—

(A) IN GENERAL.—The Secretary shall determine the amount of a risk management payment for an agricultural commodity produced on the farm of a producer for an ap-

*plicable crop taking into consideration the expenditure by the producer on the risk management practices obtained or used by the producer.*

(B) *MAXIMUM PAYMENT.*—No payment shall be made in excess of an amount equal to the average of the previous year's liability for all catastrophic risk protection policies.

(C) *FUNDING.*—

(i) *IN GENERAL.*—Subject to clause (ii), there are authorized to be expended to carry out this subsection from the insurance fund under section 516(b)(2)(C) not more than \$500,000,000 for the period fiscal years 2002 through 2004 .

(ii) *ANNUAL LIMITATION.*—Not more than \$200,000,000 may be expended in any fiscal year to carry out this subsection.

(6) *ADMINISTRATIVE PROVISIONS.*—

(A) *CERTIFICATION.*—A producer shall submit to the crop insurance agent or approved insurance provider a risk management practices form that certifies, in accordance with standards prescribed by the Secretary, the qualifying risk management practices and associated costs that were obtained or used by the producer during the applicable year.

(B) *COMPLIANCE.*—The Corporation may perform random audits of producers that obtain a risk management payment to ensure that the producers obtained or used the qualifying risk management practices described in the form.

(C) *VIOLATION OF TERMS OF RISK MANAGEMENT PAYMENT.*—If a producer has accepted a risk management payment or crop insurance premium subsidy for an applicable year and the producer fails to comply with subparagraph (A), or to carry out a qualifying risk management option elected by the producer under paragraph (4), with respect to the applicable year, the producer—

(i) shall refund to the Corporation an amount equal to the risk management payment; and

(ii) may be subject to debarment from loans and payments for a period of not to exceed 5 years, as provided in section 506(n)(3)(B).

(D) *ASSIGNMENT AND SHARING OF BENEFITS.*—

(i) *ASSIGNMENT OF BENEFITS.*—Assignment of a benefit provided under this subsection shall be carried out as provided in section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)).

(ii) *NOTICE.*—The producer making the assignment, or the assignee, shall provide the Corporation with notice, in such manner as the Corporation may require, of any assignment.

(iii) *SHARING OF BENEFITS.*—The Corporation shall provide for the sharing of benefits under this subsection among all producers that are at risk in the production of an applicable crop on a fair and equitable basis.

(7) *FISCAL YEARS.*—This subsection shall apply to each of fiscal years 2002 through 2004.

**SEC. 523. SPECIALTY CROPS.**

(a) *RESEARCH REGARDING THE DEVELOPMENT OF NEW OR REVISED CROP INSURANCE POLICIES.*—To encourage the development of new or revised crop insurance policies and other materials for specialty crops by qualified private entities, and the submission of those insurance policies and other materials to the Corporation under section 508(h), the Specialty Crops Coordinator may—

(1) make grants on a competitive basis for the research and development of plans of insurance for under served specialty crops;

(2) reimburse research costs associated with product development; and

(3) enter into contracts on a competitive basis for the research and development of plans of insurance for under served specialty crops.

(b) *PARTNERSHIPS FOR DEVELOPMENT OF RISK MANAGEMENT TOOLS FOR SPECIALTY CROPS.*—

(1) *PURPOSE.*—The purpose of this subsection is to authorize the Specialty Crops Coordinator, on behalf of the Corporation, to enter into partnerships with qualified public and private entities for the purpose of increasing the availability of risk management tools for producers of specialty crops.

(2) *AUTHORITY.*—

(A) *IN GENERAL.*—For each of fiscal years 2001 through 2004, the Corporation may use not more than \$20,000,000 from funds in the insurance fund under section 516(c)(1) to enter into partnerships with the Cooperative State Research, Education, and Extension Service, the Agricultural Research Service, the National Oceanic and Atmospheric Administration, and other appropriate public and private entities with demonstrated capabilities in developing and implementing risk management and marketing options for specialty crops.

(B) *EXCLUSION.*—Amounts necessary to carry out subparagraph (A) shall not be in addition to the limitation on research and development expenses established in section 516(b)(2)(A).

(3) *OBJECTIVES.*—The Corporation may enter into a partnership under this subsection to—

(A) enhance the notice, and timeliness of notice of weather conditions, that could negatively affect specialty crop yields, quality, and final product use in order to allow producers to take preventive actions to increase end-product profitability and marketability and to reduce the possibility of crop insurance claims;

(B) develop a multifaceted approach to pest management to decrease inputs, decrease the development of pest resistance, and increase the effectiveness of pest prevention applications;

(C) develop a multifaceted approach to fertilization to decrease inputs, decrease excessive nutrient loading to the environment, and increase application efficiency;

(D) develop or improve techniques for planning, breeding, growing, maintaining, harvesting, storage, and shipping that will address quality and quantity challenges for specialty crops and livestock associated with year-to-year and regional variations;

(E) provide assistance to State foresters or equivalent officials for the prescribed use of burning on private forest land for the prevention, control, and suppression of fire; and

(F) develop other risk management tools that specialty crop producers can use to further increase their economic and production stability.

(c) **TIME PERIODS FOR PURCHASE OF COVERAGE FOR SPECIALTY CROPS.**—

(1) **SALES CLOSING DATE.**—The sales closing date for obtaining coverage for a specialty crop under this title may not expire before the end of the 120-day period beginning on the date of the final release of materials for policies from the Risk Management Agency and the Specialty Crops Coordinator.

(2) **PURCHASE DURING INSURANCE PERIOD.**—A producer of a specialty crop may purchase new coverage for the specialty crop, or increase coverage levels, at any time during the insurance period, subject to a 30-day waiting period for the coverage to take effect to permit an inspection to verify acceptability by the insurance provider.

(d) **STUDIES OF NEW SPECIALTY CROP INSURANCE POLICIES.**—

(1) **IN GENERAL.**—The Corporation and the Specialty Crops Coordinator authorized under section 507(g) shall jointly conduct studies of the feasibility of developing new insurance policies for specialty crops, including policies based on the cost of production or adjusted gross income, quality-based policies, or an intermediate program with a higher coverage and cost than the catastrophic risk protection offered on the date of enactment of this section.

(2) **SUBMISSION OF RESULTS.**—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Corporation and the Specialty Crops Coordinator shall submit to Congress a report containing the results of the studies required under this subsection.

(e) **FISCAL YEARS.**—Subsections (b) and (c) shall apply to each of fiscal years 2001 through 2004.

## AGRICULTURAL MARKET TRANSITION ACT

### SEC. 101. SHORT TITLE AND PURPOSE.

\* \* \* \* \*

### SEC. 196. ADMINISTRATION AND OPERATION OF NONINSURED CROP ASSISTANCE PROGRAM.

(a) **OPERATION AND ADMINISTRATION OF PROGRAM.**—

\* \* \* \* \*

(2) **ELIGIBLE CROPS.**—

\* \* \* \* \*

(C) *COMBINATION OF SIMILAR TYPES OR VARIETIES.*—At the option of the Secretary, all types or varieties of a crop or commodity, described in subparagraphs (A) and (B), may be considered to be a single eligible crop under this section.

(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) *TIMELY APPLICATION.*—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted [at such time as the Secretary may require] *not later than March 15.*

(2) *RECORDS.*—[A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.] *To be eligible for assistance under this section, a producer shall provide annually to the Secretary records of crop acreage, acreage yields, and production for each crop, as required by the Secretary.*

(3) *ACREAGE REPORTS.*—A producer shall provide *annual* reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

[(1) *REQUIRED AREA LOSS.*—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.]

[(2) *PREVENTED PLANTING.*—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.]

[(3) *REDUCED YIELDS.*—Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.]

(1) *CAUSE.*—*To be eligible for assistance under this section, a producer of an eligible crop shall have suffered a loss of a noninsured commodity as the result of a cause described in subsection (a)(3).*

(2) *ASSISTANCE.*—*On making a determination described in subsection (a)(3), the Secretary shall provide assistance under this section to producers of an eligible crop that have suffered a loss as a result of the cause described in subsection (a)(3).*

(3) *PREVENTED PLANTING.*—*The Secretary shall make a prevented planting noninsured crop disaster assistance payment to a producer if the producer is prevented from planting more*

than 15 percent of the acreage intended for the eligible crop because of a cause described in subsection (a)(3), as determined by the Secretary.

(4) *AREA TRIGGER.*—The Secretary may provide assistance to individual producers without any requirement of an area loss.

(d) *PAYMENT.*—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent (*except as provided in subsection (j)*) of the established yield for the crop determined under subsection (e); by

\* \* \* \* \*

(j) *NEW ELIGIBLE CROPS.*—

(1) *IN GENERAL.*—Subject to paragraph (2), if a producer produces an eligible crop that is new to an area (as determined by the Secretary), a payment for the producer shall be computed by substituting the following percentages of yields for the percentages of yields specified in subsection (d)(1):

(A) In the case of the first crop year of the eligible crop produced by the producer, 35 percent of the established yield for the crop determined under subsection (e).

(B) In the case of each of the second through fourth years of the eligible crop produced by the producer—

(i) 45 percent of the established yield for the crop determined under subsection (e); or

(ii) if the producer received a payment under this section for the first crop year of the eligible crop produced by the producer, 35 percent of the established yield for the crop determined under subsection (e).

(2) *TEMPORARY INELIGIBILITY.*—If a producer of an eligible crop described in paragraph (1) receives a payment under this section in both the first and second crop years of the eligible crop, the producer shall be ineligible for a payment under this section until the producer has successfully produced the crop for at least 3 consecutive crop years with no loss reported, as determined by the Secretary.

(k) *SERVICE FEE.*—

(1) *IN GENERAL.*—To be eligible to receive assistance for an eligible crop for a crop year under this section, a producer shall pay to the Secretary (at the time at which the producer provides reports under subsection (b)(3)) a service fee for the eligible crop in an amount that is equal to the lesser of—

(A) the equivalent of the per policy fee for catastrophic risk protection available under section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)); or

(B) \$200 per producer per county, but not to exceed a total of \$600 per producer.

(2) *WAIVER.*—The Secretary shall waive the service fee required under paragraph (1) in the case of a limited resource farmer, as defined by the Secretary.

(3) *USE.*—*The Secretary shall deposit service fees collected under this subsection in the Commodity Credit Corporation Fund.*

\* \* \* \* \*

## FOOD SECURITY ACT OF 1985

### Subtitle A

#### SEC. 1211. PROGRAM INELIGIBILITY.

\* \* \* \* \*

(3) during the crop year—

\* \* \* \* \*

(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); [or]

(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a)[.]; or

(E) crop or revenue insurance, or a risk management payment, under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq).

### Subtitle C—Wetland Conservation

#### SEC. 1221. PROGRAM INELIGIBILITY.

\* \* \* \* \*

(b) INELIGIBILITY FOR CERTAIN LOANS AND PAYMENTS.—If a person is determined to have committed a violation under subsection (a) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

\* \* \* \* \*

(3) During the crop year:

\* \* \* \* \*

(E) Crop or revenue insurance, or a risk management payment, under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq).